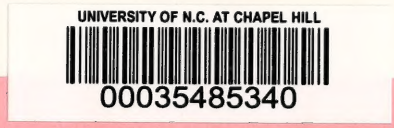
THE LIBRARY OF THE
UNIVERSITY OF
NORTH CAROLINA
AT CHAPEL HILL



THE COLLECTION OF
NORTH CAROLINIANA

C345.1
N87
1983
REGULAR &
EXTRA


UNIVERSITY OF N.C. AT CHAPEL HILL
00035485340

FOR USE ONLY IN
THE NORTH CAROLINA COLLECTION

Form No. A-368



Digitized by the Internet Archive
in 2011 with funding from
Ensuring Democracy through Digital Access (NC-LSTA)

http://www.archive.org/details/sessionlawsresol83nort

STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

1983 GENERAL ASSEMBLY

AT ITS

REGULAR SESSION 1983

BEGINNING ON

WEDNESDAY, THE TWELFTH DAY OF JANUARY, A.D. 1983

AND AT ITS

EXTRA SESSION 1983

ON

FRIDAY, THE TWENTY-SIXTH DAY OF AUGUST, A.D. 1983

HELD IN THE CITY OF RALEIGH

ISSUED BY
SECRETARY OF STATE THAD EURE

PUBLISHED BY AUTHORITY

The 1983 General Assembly convened on January 12, 1983; and adjourned on July 22, 1983, to "reconvene at noon on the second day after the date set by law for a 1984 second primary." (Resolution 55)

In accordance with Article II, Section 11(2) of the Constitution of North Carolina, the General Assembly was convened in Extra Session for one day on August 26, 1983.

C345.1
N87
1983
REGULAR +
EXTRA

TABLE OF CONTENTS

Presiding Officers of the 1983 General Assembly v
Executive Branch Officers v
Officers and Members of the Senate vi
Officers and Members of the House vii
Legislative Services Commission ix
Legislative Services Staff Directors ix
Constitution of North Carolina xi
Regular Session 1983 Chapters 1
Regular Session 1983 Resolutions 1335
Extra Session 1983 Chapters 1389
Extra Session 1983 Resolution 1393
Certification 1395
Executive Orders 1396
Numerical Index 1451
Session Law Index 1459
Resolution Index 1577
Extra Session 1983 Index 1583

849783

STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE 1983 GENERAL ASSEMBLY

JAMES C. GREEN	President of the Senate	Bladen
LISTON BRYAN RAMSEY	Speaker of the House of Representatives	Madison

EXECUTIVE BRANCH

(Offices established by the Constitution, filled by election, and comprising the Council of State)

JAMES B. HUNT, JR.	Governor	Wilson
JAMES C. GREEN	Lieutenant Governor	Bladen
THAD EURE	Secretary of State	Hertford
EDWARD RENFROW	Auditor	Johnston
HARLAN E. BOYLES	Treasurer	Wake
A. CRAIG PHILLIPS	Superintendent of Public Instruction	Guilford
RUFUS L. EDMISTEN	Attorney General	Watauga
JAMES A. GRAHAM	Commissioner of Agriculture	Rowan
JOHN C. BROOKS	Commissioner of Labor	Wake
JOHN R. INGRAM	Commissioner of Insurance	Randolph

The political affiliation of each legislator and member of the Council of State listed on this and the following pages is Democratic unless designated Republican by the abbreviation (R).

G.S. 147-16.1 authorizes publication of Executive Orders of the Governor in the Session Laws of North Carolina. Executive Orders from Governor Hunt are carried in the Appendix to this volume.

1983 GENERAL ASSEMBLY

SENATE OFFICERS

Name	*Position*	*Address*
JAMES C. GREEN	President	Clarkton
W. CRAIG LAWING	President Pro Tempore	Charlotte
SYLVIA M. FINK	Principal Clerk	Raleigh
LEROY CLARK, JR.	Reading Clerk	Wendell
GERDA PLEASANTS	Sergeant-at-Arms	Raleigh

SENATORS

District	Name	County	Address
1	MELVIN R. DANIELS, JR.	Pasquotank	Elizabeth City
2	JOSEPH J. HARRINGTON	Bertie	Lewiston
3	JOSEPH E. THOMAS	Craven	Vanceboro
4	A. D. GUY	Onslow	Jacksonville
5	HAROLD W. HARDISON	Lenoir	Deep Run
6	JULIAN R. ALLSBROOK	Halifax	Roanoke Rapids
7	JULIUS A. WRIGHT (R)	New Hanover	Wilmington
8	HENSON P. BARNES	Wayne	Goldsboro
9	VERNON E. WHITE	Pitt	Winterville
10	DALLAS L. ALFORD, JR.	Nash	Rocky Mount
11	JAMES D. SPEED	Franklin	Louisburg
12	ANTHONY E. RAND	Cumberland	Fayetteville
12	LURA S. TALLY	Cumberland	Fayetteville
13	KENNETH C. ROYALL, JR.	Durham	Durham
13	WILLIAM G. HANCOCK, JR.	Durham	Durham
14	JOSEPH E. JOHNSON	Wake	Raleigh
14	WILLIAM W. STATON	Lee	Sanford
14	WILMA C. WOODARD	Wake	Garner
15	ROBERT DAVIS WARREN	Johnston	Benson
16	WANDA HUNT	Moore	Pinehurst
16	RUSSELL G. WALKER	Randolph	Asheboro
17	ROBERT B. JORDAN, III	Montgomery	Mt. Gilead
17	AARON W. PLYLER	Union	Monroe
18	R. C. SOLES, JR.	Columbus	Tabor City
19	ELTON EDWARDS	Guilford	Greensboro
20	RICHARD W. BARNES	Forsyth	Winston-Salem
20	MARVIN WARD	Forsyth	Winston-Salem
21	CARY D. ALLRED (R)	Alamance	Burlington
22	KENNETH R. HARRIS (R)	Mecklenburg	Charlotte
22	CECIL R. JENKINS, JR.	Cabarrus	Kannapolis
22	W. CRAIG LAWING	Mecklenburg	Charlotte
22	BENJAMIN T. TISON	Mecklenburg	Charlotte
23	JACK CHILDERS	Davidson	Lexington
23	ROBERT M. DAVIS	Rowan	Salisbury
24	CONRAD R. DUNCAN, JR.	Rockingham	Stoneville
24	GEORGE W. MARION, JR.	Surry	Dobson
25	OLLIE HARRIS	Cleveland	Kings Mountain
25	HELEN R. MARVIN	Gaston	Gastonia
25	MARSHALL A. RAUCH	Gaston	Gastonia
26	T. CASS BALLENGER (R)	Catawba	Hickory
26	WILLIAM W. REDMAN, JR. (R)	Iredell	Statesville
27	JAMES H. EDWARDS	Caldwell	Hickory
27	DONALD R. KINCAID (R)	Caldwell	Lenoir
28	ROBERT S. SWAIN	Buncombe	Asheville
28	DENNIS WINNER	Buncombe	Asheville
29	CHARLES W. HIPPS	Haywood	Waynesville
29	R. P. THOMAS	Henderson	Hendersonville
30	DAVID R. PARNELL	Robeson	Parkton
31	WILLIAM N. MARTIN	Guilford	Greensboro
32	RACHEL G. GRAY	Guilford	High Point

HOUSE OFFICERS

Name	*Position*	*Address*
LISTON BRYAN RAMSEY	Speaker	Marshall
ALLEN C. BARBEE	Speaker Pro Tempore	Spring Hope
GRACE A. COLLINS	Principal Clerk	Fuquay-Varina
SAM J. BURROW, JR.	Reading Clerk	Asheboro
LARRY P. EAGLES	Sergeant-at-Arms	Tarboro

REPRESENTATIVES

District	Name	County	Address
1	CHARLES D. EVANS	Dare	Nags Head
1	VERNON G. JAMES	Pasquotank	Elizabeth City
2	HOWARD B. CHAPIN	Beaufort	Washington
3	GERALD LEE ANDERSON	Craven	New Bern
3	CHRIS S. BARKER, JR.	Craven	New Bern
3	DANIEL T. LILLEY	Lenoir	Kinston
4	BRUCE ETHRIDGE	Onslow	Swansboro
4	G. MALCOLM FULCHER, JR.	Carteret	Atlantic Beach
4	J. PAUL TYNDALL	Onslow	Jacksonville
5	C. MELVIN CREECY	Northampton	Rich Square
6	JOHN BOND GILLAM, III	Bertie	Windsor
7	FRANK W. BALLANCE, JR.	Warren	Warrenton
8	ALLEN C. BARBEE	Nash	Spring Hope
8	JEANNE FENNER	Wilson	Wilson
8	TOM MATTHEWS	Nash	Rocky Mount
8	JOSEPHUS LYMAN MAVRETIC	Edgecombe	Tarboro
9	WALTER B. JONES, JR.*	Pitt	Farmville
9	EDWARD N. WARREN	Pitt	Greenville
10	WENDELL H. MURPHY	Duplin	Rose Hill
11	MARTIN LANCASTER	Wayne	Goldsboro
11	CHARLES D. WOODARD	Wayne	Goldsboro
12	EDWARD C. BOWEN	Sampson	Harrells
12	MURRAY POOL	Sampson	Clinton
13	HARRY E. PAYNE, JR.	New Hanover	Wilmington
13	S. THOMAS RHODES (R)	New Hanover	Wilmington
14	TOM B. RABON, JR.	Brunswick	Winnabow
15	RICHARD WRIGHT	Columbus	Tabor City
16	DANIEL H. DEVANE	Hoke	Raeford
16	JOHN CALVIN HASTY	Robeson	Maxton
16	SIDNEY A. LOCKS	Robeson	Lumberton
17	C. R. EDWARDS	Cumberland	Fayetteville
17	LUTHER R. JERALDS	Cumberland	Fayetteville
18	R. D. BEARD	Cumberland	Fayetteville
18	WILLIAM E. CLARK	Cumberland	Fayetteville
18	HENRY M. TYSON	Cumberland	Fayetteville
19	BOBBY R. ETHERIDGE	Harnett	Lillington
19	DENNIS A. WICKER	Lee	Sanford
20	GEORGE WYATT BRANNAN	Johnston	Smithfield
20	BARNEY PAUL WOODARD	Johnston	Princeton
21	ALLEN ADAMS	Wake	Raleigh
21	DANIEL T. BLUE, JR.	Wake	Raleigh
21	RUTH E. COOK**	Wake	Raleigh
21	AARON E. FUSSELL	Wake	Raleigh
21	MARVIN D. MUSSELWHITE, JR.	Wake	Raleigh
21	MARGARET P. STAMEY	Wake	Raleigh
22	JOHN T. CHURCH	Vance	Henderson
22	JAMES W. CRAWFORD, JR.	Granville	Oxford
22	WILLIAM T. WATKINS	Granville	Oxford
23	GEORGE W. MILLER, JR.	Durham	Durham
23	W. PAUL PULLEY, JR.	Durham	Durham
23	KENNETH B. SPAULDING	Durham	Durham
24	ANNE C. BARNES	Orange	Chapel Hill
24	JOE HACKNEY	Orange	Chapel Hill
25	BERTHA B. HOLT	Alamance	Burlington
25	JOHN M. JORDAN	Alamance	Saxapahaw

25	ROBERT L. MCALISTER	Rockingham	Ruffin
25	TIMOTHY H. MCDOWELL	Alamance	Mebane
26	HERMAN C. GIST	Guilford	Greensboro
27	J. HOWARD COBLE (R)	Guilford	Greensboro
27	MARGARET P. KEESEE (R)	Guilford	Greensboro
27	MARY P. SEYMOUR	Guilford	Greensboro
28	DOROTHY R. BURNLEY (R)	Guilford	High Point
28	MARY JARRELL	Guilford	High Point
29	WILLIAM T. GRIMSLEY	Guilford	Summerfield
30	FRANK REDDING (R)	Randolph	Asheboro
31	T. CLYDE AUMAN	Moore	West End
32	HUGH LEE	Richmond	Rockingham
33	FOYLE HIGHTOWER, JR.	Anson	Wadesboro
34	JOE R. HUDSON	Union	Waxhaw
34	DWIGHT W. QUINN	Cabarrus	Kannapolis
34	ROBERT L. SLAUGHTER	Stanly	Albemarle
34	BETTY DORTON THOMAS	Cabarrus	Concord
35	BRADFORD VERDIZE LIGON (R)	Rowan	Salisbury
35	ROBIE L. NASH	Rowan	Salisbury
36	PHILLIP O. BERRY	Mecklenburg	Charlotte
36	JAMES B. BLACK	Mecklenburg	Matthews
36	LOUISE S. BRENNAN	Mecklenburg	Charlotte
36	RUTH M. EASTERLING	Mecklenburg	Charlotte
36	GUS N. ECONOMOS	Mecklenburg	Charlotte
36	JO GRAHAM FOSTER	Mecklenburg	Charlotte
36	PARKS HELMS	Mecklenburg	Charlotte
36	LEROY P. SPOON, JR. (R)	Mecklenburg	Charlotte
37	BETSY COCHRANE (R)	Davie	Advance
37	J. E. LAMBETH	Davidson	Thomasville
37	JOHN W. VARNER	Davidson	Lexington
38	HAROLD J. BRUBAKER (R)	Randolph	Asheboro
39	R. J. CHILDRESS	Forsyth	Winston-Salem
39	C. B. HAUSER	Forsyth	Winston-Salem
39	ANNIE BROWN KENNEDY	Forsyth	Winston-Salem
39	MARGARET TENNILLE	Forsyth	Winston-Salem
39	TOM C. WOMBLE	Forsyth	Clemmons
40	DAVID H. DIAMONT	Surry	Pilot Mountain
40	J. WORTH GENTRY	Stokes	King
40	MARGARET B. HAYDEN	Alleghany	Sparta
41	JOHN WALTER BROWN (R)	Wilkes	Elkin
41	GEORGE M. HOLMES (R)	Yadkin	Hamptonville
42	J. P. HUSKINS	Iredell	Statesville
43	C. ROBERT BRAWLEY (R)	Iredell	Mooresville
44	SAM L. BEAM	Gaston	Cherryville
44	DAVID W. BUMGARDNER, JR.	Gaston	Belmont
44	D. R. MAUNEY, JR.	Gaston	Cherryville
44	J. B. ROBERTS	Gaston	Gastonia
45	AUSTIN M. ALLRAN (R)	Catawba	Hickory
45	J. REID POOVEY (R)	Catawba	Hickory
46	JAMES F. HUGHES (R)	Avery	Linville
46	S. B. LACEY, JR. (R)	Avery	Newland
46	GEORGE S. ROBINSON (R)	Caldwell	Lenoir
47	RAY C. FLETCHER	Burke	Valdese
48	JOHN J. HUNT	Cleveland	Lattimore
48	EDITH L. LUTZ	Cleveland	Lawndale
48	CHARLES OWENS	Rutherford	Forest City
49	ROBERT CARL HUNTER	McDowell	Marion
50	CHARLES H. HUGHES (R)	Henderson	Hendersonville
51	MARIE W. COLTON	Buncombe	Asheville
51	NARVEL JIM CRAWFORD	Buncombe	Asheville
51	GORDON H. GREENWOOD	Buncombe	Black Mountain
51	MARTIN L. NESBITT, JR.	Buncombe	Asheville
52	CHARLES M. BEALL	Haywood	Clyde
52	LISTON B. RAMSEY	Madison	Marshall
53	JEFF H. ENLOE, JR.	Macon	Franklin

* Replaced the late Sam D. Bundy on February 7, 1983.
** Appointed to Utilities Commission. Replaced by J. Ray Sparrow on July 1, 1983.

LEGISLATIVE SERVICES COMMISSION

SENATE PRESIDENT PRO TEMPORE W. CRAIG LAWING, *Cochairman*

HOUSE SPEAKER LISTON BRYAN RAMSEY, *Cochairman*

SEN. OLLIE HARRIS	REP. ALLEN C. BARBEE
SEN. DAVID R. PARNELL	REP. DANIEL T. BLUE
SEN. JAMES D. SPEED	REP. MARIE W. COLTON
SEN. AARON W. PLYLER	REP. CHARLES D. EVANS
SEN. KENNETH C. ROYALL, JR.	REP. FOYLE HIGHTOWER, JR.
SEN. WILMA C. WOODARD	REP. WILLIAM T. WATKINS

LEGISLATIVE SERVICES STAFF DIRECTORS

GEORGE R. HALL, JR.	Legislative Administrative Officer
TERRENCE D. SULLIVAN	Director of Research
THOMAS L. COVINGTON	Director of Fiscal Research
GERRY F. COHEN	Director of Legislative Drafting
J. MICHAEL MINSHEW	Building Superintendent and Chief of Security

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof and for the better government of this State, ordain and establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and government of the United States and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare that:

Section 1. *The equality and rights of persons.* We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

Sec. 2. *Sovereignty of the people.* All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

Sec. 3. *Internal government of the State.* The people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering or abolishing their Constitution and form of government whenever it may be necessary to their safety and happiness; but every such right shall be exercised in pursuance of law and consistently with the Constitution of the United States.

Sec. 4. *Secession prohibited.* This State shall ever remain a member of the American Union; the people thereof are part of the American nation; there is no right on the part of this State to secede; and all attempts, from whatever source or upon whatever pretext, to dissolve this Union or to sever this Nation, shall be resisted with the whole power of the State.

Sec. 5. *Allegiance to the United States.* Every citizen of this State owes paramount allegiance to the Constitution and government of the United States, and no law or ordinance of the State in contravention or subversion thereof can have any binding force.

Sec. 6. *Separation of powers.* The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.

Sec. 7. *Suspending laws.* All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised.

Sec. 8. *Representation and taxation.* The people of this State shall not be taxed or made subject to the payment of any impost or duty without the consent of themselves or their representatives in the General Assembly, freely given.

Sec. 9. *Frequent elections.* For redress of grievances and for amending and strengthening the laws, elections shall be often held.

Sec. 10. *Free elections.* All elections shall be free.

Sec. 11. *Property qualifications.* As political rights and privileges are not dependent upon or modified by property, no property qualification shall affect the right to vote or hold office.

Sec. 12. *Right of assembly and petition.* The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.

Sec. 13. *Religious liberty.* All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience.

Sec. 14. *Freedom of speech and press.* Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse.

Sec. 15. *Education.* The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

Sec. 16. *Ex post facto laws.* Retrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted. No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted.

Sec. 17. *Slavery and involuntary servitude.* Slavery is forever prohibited. Involuntary servitude, except as a punishment for crime whereof the parties have been adjudged guilty, is forever prohibited.

Sec. 18. *Courts shall be open.* All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay.

Sec. 19. *Law of the land; equal protection of the laws.* No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

Sec. 20. *General warrants.* General warrants, whereby any officer or other person may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.

Sec. 21. *Inquiry into restraints on liberty.* Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the restraint if unlawful, and that remedy shall not be denied or delayed. The privilege of the writ of habeas corpus shall not be suspended.

Sec. 22. *Modes of prosecution.* Except in misdemeanor cases initiated in the District Court Division, no person shall be put to answer any criminal charge but by indictment, presentment, or impeachment. But any person, when represented by counsel, may, under such regulations as the General Assembly shall prescribe, waive indictment in noncapital cases.

Sec. 23. *Rights of accused.* In all criminal prosecutions, every person charged with crime has the right to be informed of the accusation and to confront the accusers and witnesses with other testimony, and to have counsel for defense, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.

Sec. 24. *Right of jury trial in criminal cases.* No person shall be convicted of any crime but by the unanimous verdict of a jury in open court. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo.

Sec. 25. *Right of jury trial in civil cases.* In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and shall remain sacred and inviolable.

Sec. 26. *Jury service.* No person shall be excluded from jury service on account of sex, race, color, religion, or national origin.

Sec. 27. *Bail, fines, and punishments.* Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Sec. 28. *Imprisonment for debt.* There shall be no imprisonment for debt in this State, except in cases of fraud.

Sec. 29. *Treason against the State.* Treason against the State shall consist only of levying war against it or adhering to its enemies by giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

Sec. 30. *Militia and the right to bear arms.* A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and

governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice.

Sec. 31. *Quartering of soldiers.* No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

Sec. 32. *Exclusive emoluments.* No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

Sec. 33. *Hereditary emoluments and honors.* No hereditary emoluments, privileges, or honors shall be granted or conferred in this State.

Sec. 34. *Perpetuities and monopolies.* Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed.

Sec. 35. *Recurrence to fundamental principals.* A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

Sec. 36. *Other rights of the people.* The enumeration of rights in this Article shall not be construed to impair or deny others retained by the people.

ARTICLE II

LEGISLATIVE

Section 1. *Legislative power.* The legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.

Sec. 2. *Number of Senators.* The Senate shall be composed of 50 Senators, biennially chosen by ballot.

Sec. 3. *Senate districts; apportionment of Senators.* The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:

(1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;

(2) Each senate district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a senate district;

(4) When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

Sec. 4. *Number of Representatives.* The House of Representatives shall be composed of 120 Representatives, biennially chosen by ballot.

Sec. 5. *Representative districts; apportionment of Representatives.* The Representatives shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:

(1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district that he represents by the number of Representatives apportioned to that district;

(2) Each representative district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a representative district;

(4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

Sec. 6. *Qualifications for Senator.* Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a qualified voter of the State, and shall have resided in the State as a citizen for two years and in the district for which he is chosen for one year immediately preceding his election.

Sec. 7. *Qualifications for Representative.* Each Representative, at the time of his election, shall be a qualified voter of the State, and shall have resided in the district for which he is chosen for one year immediately preceding his election.

Sec. 8. *Elections.* The election for members of the General Assembly shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law.

Sec. 9. *Term of office.* The term of office of Senators and Representatives shall commence on the first day of January next after their election.

Sec. 10. *Vacancies.* Every vacancy occurring in the membership of the General Assembly by reason of death, resignation, or other cause shall be filled in the manner prescribed by law.

Sec. 11. *Sessions.*

(1) *Regular Sessions.* The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Neither house shall proceeed upon public business unless a majority of all of its members are actually present.

(2) *Extra sessions on legislative call.* The President of the Senate and the Speaker of the House of Representatives shall convene the General Assembly in extra session by their joint proclamation upon receipt by the President of the Senate of written requests therefor signed by three-fifths of all the members of the Senate and upon receipt by the Speaker of the House of Representatives of written requests therefor signed by three-fifths of all the members of the House of Representatives.

Sec. 12. *Oath of members.* Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of

the United States and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

Sec. 13. *President of the Senate.* The Lieutenant Governor shall be President of the Senate and shall preside over the Senate, but shall have no vote unless the Senate is equally divided.

Sec. 14. *Other officers of the Senate.*

(1) *President Pro Tempore - succession to presidency.* The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

(2) *President Pro Tempore - temporary succession.* During the physical or mental incapacity of the President of the Senate to perform the duties of his office, or during the absence of the President of the Senate, the President Pro Tempore shall preside over the Senate.

(3) *Other officers.* The Senate shall elect its other officers.

Sec. 15. *Officers of the House of Representatives.* The House of Representatives shall elect its Speaker and other officers.

Sec. 16. *Compensation and allowances.* The members and officers of the General Assembly shall receive for their services the compensation and allowances prescribed by law. An increase in the compensation or allowances of members shall become effective at the beginning of the next regular session of the General Assembly following the session at which it was enacted.

Sec. 17. *Journals.* Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

Sec. 18. *Protests.* Any member of either house may dissent from and protest against any act or resolve which he may think injurious to the public or to any individual, and have the reasons of his dissent entered on the journal.

Sec. 19. *Record votes.* Upon motion made in either house and seconded by one fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journal.

Sec. 20. *Powers of the General Assembly.* Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, and shall prepare bills to be enacted into laws. The two houses may jointly adjourn to any future day or other place. Either house may, of its own motion, adjourn for a period not in excess of three days.

Sec. 21. *Style of the acts.* The style of the acts shall be: "The General Assembly of North Carolina enacts:".

Sec. 22. *Action on bills.* All bills and resolutions of a legislative nature shall be read three times in each house before they become laws, and shall be signed by the presiding officers of both houses.

Sec. 23. *Revenue bills.* No laws shall be enacted to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the General Assembly and passed three several readings, which readings shall have been on three different days, and shall have been agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

Sec. 24. *Limitations on local, private, and special legislation.*

(1) *Prohibited subjects.* The General Assembly shall not enact any local, private, or special act or resolution:

(a) Relating to health, sanitation, and the abatement of nuisances;
(b) Changing the names of cities, towns, and townships;
(c) Authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys;
(d) Relating to ferries or bridges;
(e) Relating to non-navigable streams;
(f) Relating to cemeteries;
(g) Relating to the pay of jurors;
(h) Erecting new townships, or changing township lines, or establishing or changing the lines of school districts;
(i) Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury;
(j) Regulating labor, trade, mining, or manufacturing;
(k) Extending the time for the levy or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability;
(l) Giving effect to informal wills and deeds;
(m) Granting a divorce or securing alimony in any individual case;
(n) Altering the name of any person, or legitimating any person not born in lawful wedlock, or restoring to the rights of citizenship any person convicted of a felony.

(2) *Repeals.* Nor shall the General Assembly enact any such local, private, or special act by partial repeal of a general law; but the General Assembly may at any time repeal local, private, or special laws enacted by it.

(3) *Prohibited acts void.* Any local, private, or special act or resolution enacted in violation of the provisions of this Section shall be void.

(4) *General laws.* The General Assembly may enact general laws regulating the matters set out in this Section.

ARTICLE III

EXECUTIVE

Section 1. *Executive power.* The executive power of the State shall be vested in the Governor.

Sec. 2. *Governor and Lieutenant Governor: election, term, and qualifications.*

(1) *Election and term.* The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Qualifications.* No person shall be eligible for election to the office of Governor or Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election. No person elected to the office of Governor or Lieutenant Governor shall be eligible for election to more than two consecutive terms of the same office.

Sec. 3. *Succession to office of Governor.*

(1) *Succession as Governor.* The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.

(2) *Succession as Acting Governor.* During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

(3) *Physical incapacity.* The Governor may, by a written statement filed with the Attorney General, declare that he is physically incapable of performing the duties of his office, and may thereafter in the same manner declare that he is physically capable of performing the duties of his office.

(4) *Mental incapacity.* The mental incapacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of a majority of all the members of each house of the General Assembly. In all cases, the General Assembly shall give the Governor such notice as it may deem proper and shall allow him an opportunity to be heard before a joint session of the General Assembly before it takes final action. When the General Assembly is not in session, the Council of State, a majority of its members concurring, may convene it in extra session for the purpose of proceeding under this paragraph.

(5) *Impeachment.* Removal of the Governor from office for any other cause shall be by impeachment.

Sec. 4. *Oath of office for Governor.* The Governor, before entering upon the duties of his office, shall, before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties pertaining to the office of Governor.

Sec. 5. *Duties of Governor.*

(1) *Residence.* The Governor shall reside at the seat of government of this State.

(2) *Information to General Assembly.* The Governor shall from time to time give the General Assembly information of the affairs of the State and recommend to their consideration such measures as he shall deem expedient.

(3) *Budget.* The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures. This section shall not be construed to impair the power of the State to issue its bonds and notes within the limitations imposed in Article V of this Constitution, nor to impair the obligation of bonds and notes of the State now outstanding or issued hereafter.

(4) *Execution of laws.* The Governor shall take care that the laws be faithfully executed.

(5) *Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State except when they shall be called into the service of the United States.

(6) *Clemency.* The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons. The terms reprieves, commutations, and pardons shall not include paroles.

(7) *Extra sessions.* The Governor may, on extraordinary occasions, by and with the advice of the Council of State, convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

(8) *Appointments.* The Governor shall nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for.

(9) *Information.* The Governor may at any time require information in writing from the head of any administrative department or agency upon any subject relating to the duties of his office.

(10) *Administrative reorganization.* The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the

allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become effective and shall have the force of law upon adjournment sine die of the session, unless specifically disapproved by resolution of either house of the General Assembly or specifically modified by joint resolution of both houses of the General Assembly.

Sec. 6. *Duties of the Lieutenant Governor.* The Lieutenant Governor shall be President of the Senate, but shall have no vote unless the Senate is equally divided. He shall perform such additional duties as the General Assembly or the Governor may assign to him. He shall receive the compensation and allowances prescribed by law.

Sec. 7. *Other elective officers.*

(1) *Officers.* A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Duties.* Their respective duties shall be prescribed by law.

(3) *Vacancies.* If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) *Interim officers.* Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

(5) *Acting officers.* During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) *Determination of incapacity.* The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.

Sec. 8. *Council of State.* The Council of State shall consist of the officers whose offices are established by this Article.

Sec. 9. *Compensation and allowances.* The officers whose offices are established by this Article shall at stated periods receive the compensation and allowances prescribed by law, which shall not be diminished during the time for which they have been chosen.

Sec. 10. *Seal of State.* There shall be a seal of the State, which shall be kept by the Governor and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina." All grants or commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State of North Carolina," and signed by the Governor.

Sec. 11. *Administrative departments.* Not later than July 1, 1975, all administrative departments, agencies, and offices of the State and their respective functions, powers, and duties shall be allocated by law among and within not more than 25 principal administrative departments so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may, but need not, be allocated within a principal department.

ARTICLE IV

JUDICIAL

Section 1. *Judicial power.* The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial of Impeachments and in a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a coordinate department of the government, nor shall it establish or authorize any courts other than as permitted by this Article.

Sec. 2. *General Court of Justice.* The General Court of Justice shall constitute a unified judicial system for purposes of jurisdiction, operation, and administration, and shall consist of an Appellate Division, a Superior Court Division, and a District Court Division.

Sec. 3. *Judicial powers of administrative agencies.* The General Assembly may vest in administrative agencies established pursuant to law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies were created. Appeals from administrative agencies shall be to the General Court of Justice.

Sec. 4. *Court for the Trial of Impeachments.* The House of Representatives solely shall have the power of impeaching. The Court for the Trial of Impeachments shall be the Senate. When the Governor or Lieutenant Governor is impeached, the Chief Justice shall preside over the Court. A majority of the members shall be necessary to a quorum, and no person shall be convicted without the concurrence of two-thirds of the Senators present. Judgment upon conviction shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

Sec. 5. *Appellate division.* The Appellate Division of the General Court of Justice shall consist of the Supreme Court and the Court of Appeals.

Sec. 6. *Supreme Court.*

(1) *Membership.* The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, the senior Associate Justice available may discharge those duties.

(2) *Sessions of the Supreme Court.* The sessions of the Supreme Court shall be held in the City of Raleigh unless otherwise provided by the General Assembly.

Sec. 7. *Court of Appeals.* The structure, organization, and composition of the Court of Appeals shall be determined by the General Assembly. The Court shall have not less than five members, and may be authorized to sit in divisions, or other than en banc. Sessions of the Court shall be held at such times and places as the General Assembly may prescribe.

Sec. 8. *Retirement of Justices and Judges.* The General Assembly shall provide by general law for the retirement of Justices and Judges of the General Court of Justice, and may provide for the temporary recall of any retired Justice or Judge to serve on the court or courts of the division from which he was retired. The General Assembly shall also prescribe maximum age limits service as a Justice or Judge.

Sec. 9. *Superior Courts.*

(1) *Superior Court districts.* The General Assembly shall, from time to time, divide the State into a convenient number of Superior Court judicial districts and shall provide for the election of one or more Superior Court Judges for each district. Each regular Superior Court Judge shall reside in the district for which he is elected. The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district.

(2) *Open at all times; sessions for trial of cases.* The Superior Courts shall be open at all times for the transaction of all business except the trial of issues of fact requiring a jury. Regular trial sessions of the Superior Court shall be held at times fixed pursuant to a calendar of courts promulgated by the Supreme Court. At least two sessions for the trial of jury cases shall be held annually in each county.

(3) *Clerks.* A Clerk of the Superior Court for each county shall be elected for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. If the office of Clerk of the Superior Court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect, the senior regular resident Judge of the Superior Court serving the county shall appoint to fill the vacancy until an election can be regularly held.

Sec. 10. *District Courts.* The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected.

For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint for a term of two years, from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office.

Sec. 11. *Assignment of Judges.* The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, shall make assignments of Judges of the Superior Court and may transfer District Judges from one district to another for temporary or specialized duty. The principle of rotating Superior Court Judges among the various districts of a division is a salutary one and shall be observed. For this purpose the General Assembly may divide the State into a number of judicial divisions. Subject to the general supervision of the Chief Justice of the Supreme Court, assignment of District Judges within each local court district shall be made by the Chief District Judge.

Sec. 12. *Jurisdiction of the General Court of Justice.*

(1) *Supreme Court.* The Supreme Court shall have jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The jurisdiction of the Supreme Court over "issues of fact" and "questions of fact" shall be the same exercised by it prior to the adoption of this Article, and the Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts. The Supreme Court also has jurisdiction to review, when authorized by law, direct appeals from a final order or decision of the North Carolina Utilities Commission.

(2) *Court of Appeals.* The Court of Appeals shall have such appellate jurisdiction as the General Assembly may prescribe.

(3) *Superior Court.* Except as otherwise provided by the General Assembly, the Superior Court shall have original general jurisdiction throughout the State. The Clerks of the Superior Court shall have such jurisdiction and powers as the General Assembly shall prescribe by general law uniformly applicable in every county of the State.

(4) *District Courts; Magistrates.* The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of the District Courts and Magistrates.

(5) *Waiver.* The General Assembly may by general law provide that the jurisdictional limits may be waived in civil cases.

(6) *Appeals.* The General Assembly shall by general law provide a proper system of appeals. Appeals from Magistrates shall be heard de novo, with the right of trial by jury as defined in this Constitution and the laws of this State.

Sec. 13. *Forms of action; rules of procedure.*

(1) *Forms of Action.* There shall be in this State but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action, and in which there shall be a right to have issues of fact tried

before a jury. Every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment thereof, shall be termed a criminal action.

(2) *Rules of procedure.* The Supreme Court shall have exclusive authority to make rules of procedure and practice for the Appellate Division. The General Assembly may make rules of procedure and practice for the Superior Court and District Court Divisions, and the General Assembly may delegate this authority to the Supreme Court. No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury. If the General Assembly should delegate to the Supreme Court the rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any rule of procedure or practice adopted by the Supreme Court for the Superior Court or District Court Divisions.

Sec. 14 *Waiver of jury trial.* In all issues of fact joined in any court, the parties in any civil case may waive the right to have the issues determined by a jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

Sec. 15. *Administration.* The General Assembly shall provide for an administrative office of the courts to carry out the provisions of this Article.

Sec. 16. *Terms of office and election of Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court.* Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until their successors are elected and qualified. Justices of the Supreme Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of the Superior Court may be elected by the qualified voters of the State or by the voters of their respective districts, as the General Assembly may prescribe.

Sec. 17. *Removal of Judges, Magistrates and Clerks.*

(1) *Removal of Judges by the General Assembly.* Any Justice or Judge of the General Court of Justice may be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least 20 days before the day on which either house of the General Assembly shall act thereon. Removal from office by the General Assembly for any other cause shall be by impeachment.

(2) *Additional method of removal of Judges.* The General Assembly shall prescribe a procedure, in addition to impeachment and address set forth in this Section, for the removal of a Justice or Judge of the General Court of Justice for mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent, and for the censure and removal of a Justice or Judge of the General Court of Justice for wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(3) *Removal of Magistrates.* The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

(4) *Removal of Clerks.* Any Clerk of the Superior Court may be removed from office for misconduct or mental or physical incapacity by the senior regular resident Superior Court Judge serving the county. Any Clerk against whom proceedings are instituted shall receive written notice of the charges against him at least ten days before the hearing upon the charges. Any Clerk so removed from office shall be entitled to an appeal as provided by law.

Sec. 18. *District Attorney and Prosecutorial Districts.*

(1) *District Attorneys.* The General Assembly shall, from time to time, divide the State into a convenient number of prosecutorial districts, for each of which a District Attorney shall be chosen for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. The District Attorney shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney General may require, and perform such other duties as the General Assembly may prescribe.

(2) *Prosecution in District Court Division.* Criminal actions in the District Court Division shall be prosecuted in such manner as the General Assembly may prescribe by general law uniformly applicable in every local court district of the State.

Sec. 19. *Vacancies.* Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly that is held more than 30 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held, and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified.

Sec. 20. *Revenues and expenses of the judicial department.* The General Assembly shall provide for the establishment of a schedule of court fees and costs which shall be uniform throughout the State within each division of the General Court of Justice. The operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds.

Sec. 21. *Fees, salaries, and emoluments.* The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article, but the salaries of Judges shall not be diminished during their continuance in office. In no case shall the compensation of any Judge or Magistrate be dependent upon his decision or upon the collection of costs.

Sec. 22. *Qualification of Justices and Judges.* Only persons duly authorized to practice law in the courts of this State shall be eligible for election or appointment as a Justice of the Supreme Court, Judge of the Court of Appeals, Judge of the Superior Court, or Judge of District Court. This section shall not apply to persons elected to or serving in such capacities on or before January 1, 1981.

ARTICLE V
FINANCE

Section 1. *No capitation tax to be levied.* No poll or capitation tax shall be levied by the General Assembly or by any county, city or town, or other taxing unit.

Sec. 2. *State and local taxation.*

(1) *Power of taxation.* The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away.

(2) *Classification.* Only the General Assembly shall have the power to classify property for taxation, which power shall be exercised only on a State-wide basis and shall not be delegated. No class of property shall be taxed except by uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other unit of local government.

(3) *Exemptions.* Property belonging to the State, counties, and municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, cultural, charitable, or religious purposes, and, to a value not exceeding $300, any personal property. The General Assembly may exempt from taxation not exceeding $1,000 in value of property held and used as the place of residence of the owner. Every exemption shall be on a State-wide basis and shall be made by general law uniformly applicable in every county, city and town, and other unit of local government. No taxing authority other than the General Assembly may grant exemptions, and the General Assembly shall not delegate the powers accorded to it by this subsection.

(4) *Special tax areas.* Subject to the limitations imposed by Section 4, the General Assembly may enact general laws authorizing the governing body of any county, city or town to define territorial areas and to levy taxes within those areas, in addition to those levied throughout the county, city, or town, in order to finance, provide, or maintain services, facilities, and functions in addition to or to a greater extent than those financed, provided, or maintained for the entire county, city, or town.

(5) *Purposes of property tax.* The General Assembly shall not authorize any county, city or town, special district, or other unit of local government to levy taxes or property, except for purposes authorized by general law uniformly applicable throughout the State, unless the tax is approved by a majority of the qualified voters of the unit who vote thereon.

(6) *Income tax.* The rate of tax on incomes shall not in any case exceed ten per cent, and there shall be allowed personal exemptions and deductions so that only net incomes are taxed.

(7) *Contracts.* The General Assembly may enact laws whereby the State, any county, city or town, and any other public corporation may contract with and appropriate money to any person, association, or corporation for the accomplishment of public purposes only.

money to any person, association, or corporation for the accomplishment of public purposes only.

Sec. 3. *Limitations upon the increase of State debt.*

(1) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to contract debts secured by a pledge of the faith and credit of the State, unless approved by a majority of the qualified voters of the State who vote thereon, except for the following purposes:

(a) To fund or refund a valid existing debt;

(b) to supply an unforeseen deficiency in the revenue;

(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;

(d) to suppress riots or insurrections, or to repel invasions;

(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;

(f) for any other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium.

(2) *Gift or loan of credit regulated.* The General Assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except a corporation in which the State has a controlling interest, unless the subject is submitted to a direct vote of the people of the State, and is approved by a majority of the qualified voters who vote thereon.

(3) *Definitions.* A debt is incurred within the meaning of this Section when the State borrows money. A pledge of the faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when the State exchanges its obligations with or in any way guarantees the debts of an individual, association or private corporation.

(4) *Certain debts barred.* The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session of the General Assembly of 1868, or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

(5) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

Sec. 4. *Limitations upon the increase of local government debt.*

(1) *Regulation of borrowing and debt.* The General Assembly shall enact general laws relating to the borrowing of money secured by a pledge of the faith and credit and the contracting of other debts by counties, cities and towns, special districts, and other units, authorities, and agencies of local government.

(2) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to authorize any county, city or town, special district, or other unit of local government to contract debts secured by a pledge of its faith and credit unless approved by a majority of the qualified voters of the unit who vote thereon, except for the following purposes:

(a) to fund or refund a valid existing debt;

(b) to supply an unforseen deficiency in the revenue;

(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;

(d) to suppress riots or insurrections;

(e) to meet emergencies immediately threatening the public health or safety, as conconclusively determined in writing by the Governor;

(f) for purposes authorized by general laws uniformly applicable throughout the State, to the extent of two-thirds of the amount by which the unit's outstanding indebtedness shall have been reduced during the next preceding fiscal year.

(3) *Gift or loan of credit regulated.* No county, city or town, special district, or other unit of local government shall give or lend its credit in aid of any person, association, or corporation, except for public purposes as authorized by general law, and unless approved by a majority of the qualified voters of the unit who vote thereon.

(4) *Certain debts barred.* No county, city or town, or other unit of local government shall assume or pay any debt or the interest thereon contracted directly or indirectly in aid or support of rebellion or insurrection against the United States.

(5) *Definitions.* A debt is incurred within the meaning of this Section when a county, city or town, special district, or other unit, authority, or agency of local government borrows money. A pledge of faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when a county, city or town, special district, or other unit, authority, or agency of local government exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(6) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

Sec. 5. *Acts levying taxes to state objects.* Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

Sec. 6. *Inviolability of sinking funds and retirement funds.*

(1) *Sinking funds.* The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which the sinking fund has been created, except that these funds may be invested as authorized by law.

(2) *Retirement funds.* Neither the General Assembly nor any public officer, employee, or agency shall use or authorize to be used any part of the funds of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System for any purpose other than retirement system benefits and purposes, administrative expenses, and refunds; except that retirement system funds may be invested as authorized by law, subject to the investment limitation that the funds of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System shall not be applied, diverted, loaned to, or used by the State, any State agency, State officer, public officer, or public employee.

Sec. 7. *Drawing public money.*

(1) *State treasury.* No money shall be drawn from the State Treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of State funds shall be published annually.

(2) *Local treasury.* No money shall be drawn from the treasury of any county, city or town, or other unit of local government except by authority of law.

Sec. 8. *Health care facilities.* Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or any nonprofit private corporation, regardless of any church or religious relationship, the cost of acquiring, constructing, and financing health care facility projects to be operated to serve and benefit the public; provided, no cost incurred earlier than two years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from the revenues, gross or net, of any such projects and any other health care facilities of any such governmental entity or nonprofit private corporation pledged therefor; shall not be secured by a pledge of the full faith and credit, or deemed to create an indebtedness requiring voter approval of any governmental entity; and may be secured by an agreement which may provide for the conveyance of title of, with or without consideration, any such project or facilities to the governmental entity or nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto for nonprofit private corporations.

Sec. 9. *Capital projects for industry.* Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to authorize counties to create authorities to issue revenue bonds to finance, but not to refinance, the cost of capital projects consisting of industrial, manufacturing and pollution control facilities for industry and pollution control facilities for public utilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by and payable only from revenues or property derived from private parties. All such capital projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project.

Sec. 10. *Joint ownership of generation and transmission facilities.* In addition to other powers conferred upon them by law, municipalities owning or operating facilities for the generation, transmission or distribution of electric power and energy and joint agencies formed by such municipalities for the purpose of owning or operating facilities for the generation and transmission of electric power and energy (each, respectively, "a unit of municipal government") may jointly or severally own, operate and maintain works, plants and facilities, within or without the State, for the generation and transmission of electric power and energy, or both, with any person, firm, association or corporation, public or private, engaged in the generation, transmission or distribution of electric power and energy for resale (each, respectively, "a co-owner") within this State or any state contiguous to this State, and may enter into and carry out agreements with respect to such jointly owned facilities. For the purpose of financing its share of the cost of any such jointly owned electric generation or transmission facilities, a unit of municipal government may issue its revenue bonds in the manner prescribed by the General Assembly, payable as to both principal and interest solely from and secured by a lien and charge on all or any part of the revenue derived, or to be derived, by such unit of municipal government from the ownership and operation of its electric facilities; provided, however, that no unit of municipal government shall be liable, either jointly or severally, for any acts, omissions or obligations of any co-owner, nor shall any money or property of any unit of municipal government be credited or otherwise applied to the account of any co-owner or be charged with any debt, lien or mortgage as a result of any debt or obligation of any co-owner.

ARTICLE VI

SUFFRAGE AND ELIGIBILITY TO OFFICE

Section 1. *Who may vote.* Every person born in the United States and every person who has been naturalized, 18 years of age, and possessing the qualifications set out in this Article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided.

Sec. 2. *Qualifications of voter.*

(1) *Residence period for State elections.* Any person who has resided in the State of North Carolina for one year and in the precinct, ward, or other election district for 30 days next preceding an election, and possesses the other qualifications set out in this Article, shall be entitled to vote at any election held in this State. Removal from one precinct, ward, or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which that person has removed until 30 days after the removal.

(2) *Residence period for presidential elections.* The General Assembly may reduce the time of residence for persons voting in presidential elections. A person made eligible by reason of a reduction in time of residence shall possess the other qualifications set out in this Article, shall only be entitled to vote for President and Vice President of the United States or for electors for President and Vice President, and shall not thereby become eligible to hold office in this State.

(3) *Disqualification of felon.* No person adjudged guilty of a felony against this State

or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

Sec. 3. *Registration.* Every person offering to vote shall be at the time legally registered as a voter as herein prescribed and in the manner provided by law. The General Assembly shall enact general laws governing the registration of voters.

Sec. 4. *Qualification for registration.* Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language.

Sec. 5. *Elections by people and General Assembly.* All elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. A contested election for any office established by Article III of this Constitution shall be determined by joint ballot of both houses of the General Assembly in the manner prescribed by law.

Sec. 6. *Eligibility to elective office.* Every qualified voter in North Carolina who is 21 years of age, except as in this Constitution disqualified, shall be eligible for election by the people to office.

Sec. 7. *Oath.* Before entering upon the duties of an office, a person elected or appointed to the office shall take and subscribe the following oath:

"I, ..., do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as ....., so help me God."

Sec. 8. *Disqualifications for office.* The following persons shall be disqualified for office:

First, any person who shall deny the being of Almighty God.

Second, with respect to any office that is filled by election by the people, any person who is not qualified to vote in an election for that office.

Third, any person who has been adjudged guilty of treason or any other felony against this State or the United States, or any person who had been adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, or any person who has been adjudged guilty of corruption or malpractice in any office, or any person who has been removed by impeachment from any office, and who has not been restored to the rights of citizenship in the manner prescribed by law.

Sec. 9. *Dual office holding.*

(1) *Prohibitions.* It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.

(2) *Exceptions.* The provisions of this Section shall not prohibit any officer of the military forces of the State or of the United States not on active duty for an extensive period of time, any notary public, or any delegate to a Convention of the People from holding concurrently another office or place of trust or profit under this State or the United States or any department thereof.

Sec. 10. *Continuation in office.* In the absence of any contrary provision, all officers in this State, whether appointed or elected, shall hold their positions until other appointments are made or, if the offices are elective, until their successors are chosen and qualified.

ARTICLE VII

LOCAL GOVERNMENT

Section 1. *General Assembly to provide for local government.* The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

Sec. 2. *Sheriffs.* In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law.

Sec. 3. *Merged or consolidated counties.* Any unit of local government formed by the merger or consolidation of a county or counties and the cities and towns therein shall be deemed both a county and a city for the purposes of this Constitution, and may exercise any authority conferred by law on counties, or on cities and towns, or both, as the General Assembly may provide.

ARTICLE VIII

CORPORATIONS

Section 1. *Corporate charters.* No corporation shall be created, nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, edu-

cational, penal, or reformatory purposes that are to be and remain under the patronage and control of the State; but the General Assembly shall provide by general laws for the chartering, organization, and powers of all corporations, and for the amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general acts may be altered from time to time or repealed. The General Assembly may at any time by special act repeal the charter of any corporation.

Sec. 2. *Corporations defined.* The term "corporation" as used in this Section shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue and shall be subject to be sued in all courts, in like cases as natural persons.

ARTICLE IX

EDUCATION

Section 1. *Education encouraged.* Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged.

Sec. 2. *Uniform system of schools.*

(1) *General and uniform system; term.* The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

(2) *Local responsibility.* The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program.

Sec. 3. *School attendance.* The General Assembly shall provide that every child of appropriate age and of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

Sec. 4. *State Board of Education.*

(1) *Board.* The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) *Superintendent of Public Instruction.* The Superintendent of Public Instructiuon shall be the secretary and chief administrative officer of the State Board of Education.

Sec. 5. *Powers and duties of Board.* The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its sup-

port, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

Sec. 6. *State school fund.* The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State, and not otherwise appropriated by the State or by the terms of the grant, gift, or devise, shall be paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

Sec. 7. *County school fund.* All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

Sec. 8. *Higher education.* The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.

Sec. 9. *Benefits of public institutions of higher education.* The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.

Sec. 10. *Escheats.*

(1) *Escheats prior to July 1, 1971.* All property that prior to July 1, 1971, accrued to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be appropriated to the use of The University of North Carolina.

(2) *Escheats after June 30, 1971.* All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law.

ARTICLE X
HOMESTEADS AND EXEMPTIONS

Section 1. *Personal property exemptions.* The personal property of any resident of this State, to a value fixed by the General Assembly but not less than $500, to be selected by the resident, is exempted from sale under execution or other final process of any court, issued for the collection of any debt.

Sec. 2. *Homestead exemptions.*

(1) *Exemption from sale; exceptions.* Every homestead and the dwellings and buildings used therewith, to a value fixed by the General Assembly but not less than $1,000, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city or town with the dwellings and buildings used thereon, and to the same value, owned and occupied by a resident of the State, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for its purchase.

(2) *Exemption for benefit of children.* The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of the owner's children, or any of them.

(3) *Exemption for benefit of surviving spouse.* If the owner of a homestead dies, leaving a surviving spouse but no minor children, the homestead shall be exempt from the debts of the owner, and the rents and profits thereof shall inure to the benefit of the surviving spouse until he or she remarries, unless the surviving spouse is the owner of a separate homestead.

(4) *Conveyance of homestead.* Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it by deed, but no deed made by a married owner of a homestead shall be valid without the signature and acknowledgement of his or her spouse.

Sec. 3. *Mechanics' and laborers' liens.* The General Assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject-matter of their labor. The provisions of Sections 1 and 2 of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming the exemption or a mechanic's lien for work done on the premises.

Sec. 4. *Property of married women secured to them.* The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised and bequeathed and conveyed by her, subject to such regulations and limitations as the General Assembly may prescribe. Every married woman may exercise powers of attorney conferred upon her by her husband, including the power to execute and acknowledge deeds to property owned by herself and her husband or by her husband.

Sec. 5. *Insurance.* A person may insure his or her own life for the sole use and benefit of his or her spouse or children or both, and upon his or her death the proceeds from the

insurance shall be paid to or for the benefit of the spouse or children or both, or to a guardian, free from all claims of the representatives or creditors of the insured or his or her estate. Any insurance policy which insures the life of a person for the sole use and benefit of that person's spouse or children or both shall not be subject to the claims of creditors of the insured during his or her lifetime, whether or not the policy reserves to the insured during his or her lifetime any or all rights provided for by the policy and whether or not the policy proceeds are payable to the estate of the insured in the event the beneficiary or beneficiaries predecease the insured.

ARTICLE XI

PUNISHMENTS, CORRECTIONS, AND CHARITIES

Section 1. *Punishments.* The following punishments only shall be known to the laws of this State: death, imprisonment, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State.

Sec. 2. *Death punishment.* The object of punishments being not only to satisfy justice, but also to reform the offender and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

Sec. 3. *Charitable and correctional institutions and agencies.* Such charitable, benevolent, penal, and correctional institutions and agencies as the needs of humanity and the public good may require shall be established and operated by the State under such organization and in such manner as the General Assembly may prescribe.

Sec. 4. *Welfare policy; board of public welfare.* Beneficent provision for the poor, the unfortunate, and the orphan is one of the first duties of a civilized and a Christian state. Therefore the General Assembly shall provide for and define the duties of a board of public welfare.

ARTICLE XII

MILITARY FORCES

Section 1. *Governor is Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State and may call out those forces to execute the law, suppress riots and insurrections, and repel invasion.

ARTICLE XIII

CONVENTIONS; CONSTITUTIONAL AMENDMENT AND REVISION

Section 1. *Convention of the People.* No Convention of the People of this State shall ever be called unless by the concurrence of two-thirds of all the members of each house of the General Assembly, and unless the proposition "Convention or No Convention" is first submitted to the qualified voters of the State at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast upon the proposition are in favor of a Convention, it shall assemble on the day prescribed by the General Assembly. The General Assembly shall, in the act of submitting the convention proposi-

tion, propose limitations upon the authority of the Convention; and if a majority of the votes cast upon the proposition are in favor of a Convention, those limitations shall become binding upon the Convention. Delegates to the Convention shall be elected by the qualified voters at the time and in the manner prescribed in the act of submission. The Convention shall consist of a number of delegates equal to the membership of the House of Representatives of the General Assembly that submits the convention proposition and the delegates shall be apportioned as is the House of Representatives. A Convention shall adopt no ordinance not necessary to the purpose for which the Convention has been called.

Sec. 2. *Power to revise or amend Constitution reserved to people.* The people of this State reserve the power to amend this Constitution and to adopt a new or revised Constitution. This power may be exercised by either of the methods set out hereinafter in this Article, but in no other way.

Sec. 3. *Revision or amendment by Convention of the People.* A Convention of the People of this State may be called pursuant to Section 1 of this Article to propose a new or revised Constitution or to propose amendments to this Constitution. Every new or revised Constitution and every constitutional amendment adopted by a Convention shall be submitted to the qualified voters of the State at the time and in the manner prescribed by the Convention. If a majority of the votes cast thereon are in favor of ratification of the new or revised Constitution or the constitutional amendment or amendments, it or they shall become effective January first next after ratification by the qualified voters unless a different effective date is prescribed by the Convention.

Sec. 4. *Revision or amendment by legislative initiation.* A proposal of a new or revised Constitution or an amendment or amendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection. The proposal shall be submitted at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast thereon are in favor of the proposed new or revised Constitution or constitutional amendment or amendments, it or they shall become effective January first next after ratification by the voters unless a different effective date is prescribed in the act submitting the proposal or proposals to the qualified voters.

ARTICLE XIV

MISCELLANEOUS

Section 1. *Seat of government.* The permanent seat of government of this State shall be at the City of Raleigh.

Sec. 2. *State boundaries.* The limits and boundaries of the State shall be and remain as they now are.

Sec. 3. *General laws defined.* Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applicable throughout the State, or general laws uniformly applicable in every county, city and

town, and other unit of local government, or in every local court district, no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general or uniformly applicable laws, and every amendment or repeal of any law relating to such subject matter shall also be general and uniform in its effect throughout the State. General laws may be enacted for classes defined by population or other criteria. General laws uniformly applicable throughout the State shall be made applicable without classification or exception in every unit of local government of like kind, such as every county, or every city and town, but need not be made applicable in every unit of local government in the State. General laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, shall be made applicable without classification or exception in every unit of local government, or in every local court district, as the case may be. The General Assembly may at any time repeal any special, local, or private act.

Sec. 4. *Continuity of laws; protection of office holders.* The laws of North Carolina not in conflict with this Constitution shall continue in force until lawfully altered. Except as otherwise specifically provided, the adoption of this Constitution shall not have the effect of vacating any office or term of office now filled or held by virtue of any election or appointment made under the prior Constitution of North Carolina and the laws of the State enacted pursuant thereto.

Sec. 5. *Conservation of natural resources.* It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the "State Nature and Historic Preserve", and which shall not be used for other purposes except as authorized by law enacted by a vote of three-fifths of the members of each house of the General Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes.

SESSION LAWS
OF THE
STATE OF NORTH CAROLINA

REGULAR SESSION 1983

H. B. 3 **CHAPTER 1**

AN ACT TO DECLARE MARTIN LUTHER KING, JR.'S BIRTHDAY TO BE A LEGAL PUBLIC HOLIDAY.

Whereas, Dr. Martin Luther King, Jr., was born in Atlanta, Georgia, on January 15, 1929, and was the second child of the Rev. Martin Luther King, Sr., a Baptist minister, and Alberta King, a schoolteacher; and

Whereas, Dr. Martin Luther King, Jr., came from a long line of Baptist ministers, including his father and maternal grandfather; and

Whereas, Dr. Martin Luther King, Jr., entered Morehouse College in Atlanta, Georgia, at the age of fifteen where he was enrolled in a special program for gifted students; and

Whereas, Dr. Martin Luther King, Jr., received the degree of Bachelor of Arts from Morehouse College in 1948; and

Whereas, Dr. Martin Luther King, Jr., attended Crozer Theological Seminary in Chester, Pennsylvania, from 1948 to 1951 and received the degree of Bachelor of Divinity in 1951; and

Whereas, Dr. Martin Luther King, Jr., attended Boston University to study philosophy and received the degree of Doctor of Philosophy in 1955; and

Whereas, Dr. Martin Luther King, Jr., married Coretta Scott, a resident of Alabama and a student at the New England Conservatory of Music, in 1953; and

Whereas, Dr. Martin Luther King, Jr., received national recognition in 1955 and 1956 when he worked to end racial segregation in Montgomery, Alabama; and

Whereas, throughout his life, Dr. Matin Luther King, Jr., advocated nonviolent action to obtain equal rights for minorities and counselled his followers to show compassion, fairness, understanding, and even love to those who opposed the civil rights movement; and

Whereas, Dr. Martin Luther King, Jr., in 1964 became the youngest man in history to win the Nobel Peace Prize; and

Whereas, while preparing to lead a peaceful demonstration in Memphis, Tennessee, Dr. Martin Luther King, Jr., was shot and killed on April 4, 1968; and

Whereas, Dr. Martin Luther King, Jr., lived and died for the principles of equality, humanity, and harmony among the people of America; and

Whereas, the General Assembly of North Carolina expresses its high regard for the life and services of Dr. Martin Luther King, Jr., and honors his memory on his birthday; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 103-4(a) is amended by adding a new subdivision to read: "(1a) Martin Luther King, Jr.'s, Birthday, January 15."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of January, 1983.

H. B. 4 CHAPTER 2

AN ACT TO SCHEDULE THE REGULAR PRIMARY AND GENERAL ELECTION IN WILSON COUNTY FOR MEMBERS OF THE BOARD OF COUNTY COMMISSIONERS NOT CONDUCTED IN 1982 DUE TO DELAY CAUSED BY SUBMISSIONS TO UNITED STATES DEPARTMENT OF JUSTICE.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provisions of law to the contrary, the primary and general elections for members of the Wilson County Board of Commissioners, originally scheduled to be conducted in 1982, shall be conducted in accordance with the schedule and procedures hereinafter prescribed, and, except as provided herein, the provisions of Chapter 163 of the General Statutes shall apply.

Sec. 2. The term "approval date" as used herein shall mean the date upon which Wilson County receives written notification from the United States Department of Justice that the Attorney General of the United States does not interpose any objection to this act and the implementation thereof under the terms of the Voting Rights Act of 1965.

Sec. 3. The public notice relative to the primary election to be conducted in accordance with this act shall be published in a newspaper having general circulation in Wilson County no later than the tenth day following the approval date. At least one other publication shall be made no later than one week following the date of the first publication.

Sec. 4. The first primary election for members of the Board of County Commissioners in Wilson County shall be conducted on the first Tuesday which falls more than 30 days from the date of the first publication of the public notice prescribed in Section 3, and a second primary, if required, shall be conducted on the fourth Tuesday after the first primary. Provided, however, if no second primary is required, then the general election for said officers shall be conducted on the fourth Tuesday after the (first) primary. In the event a second primary is required, then the general election shall be conducted on the fourth Tuesday after the second primary.

Sec. 5. The public notice relative to a second primary election, if one is required, to be conducted in accordance with this act shall be published in a

newspaper having general circulation in Wilson County no later than 10 days following the first primary election, and at least one other publication shall be made no later than one week following the date of first publication; provided, however, that if a second primary election be not required, then the public notice relative to the general election, to be held in accordance which would be held in such a case on the fourth Tuesday after the (first) primary, shall be published on the same schedule as is provided in the event of a second primary election. The public notice relative to the general election to be conducted in accordance with this act, if a second primary election be required, shall be published in a newspaper having general circulation in Wilson County no later than 10 days following the second primary election, and at least two other publications shall be made, the first being no later than one week following the date of the first publication, and the second being no later than two weeks following the date of the first publication.

Sec. 6. The registration books for persons to be eligible to vote in the elections ordered herein shall be closed for the period of time preceding such elections as is specified in G.S. 163-67(a).

Sec. 7. The Wilson County Board of Elections shall conduct the canvass for the elections ordered herein on the second day following the conduct of said elections.

Sec. 8. The Wilson County Board of Elections shall implement the provisions of this act and shall be authorized to execute its responsibilities pursuant to G.S. 163-33(1) and G.S. 163-35(d).

Sec. 9. Absentee ballots are authorized for the elections ordered under provisions of this act and shall be issued as quickly as the ballots can be made available following ratification of this act. The requirement that absentee ballots shall be available for voting at least 60 days prior to the date of the primary or election shall not apply with regard to the primaries and election ordered herein only. The Wilson County Board of Elections shall hold such meetings as are necessary to pass upon the validity of applications for absentee ballots received in Wilson County for the elections ordered under the provisions of this act, and the schedule of meetings for said purpose as set forth in G.S. 163-230(2) may be modified by the Wilson County Board of Elections.

Sec. 10. The primary election ballot to be printed pursuant to this act shall contain the names of the 11 democratic candidates who have filed, and each voter shall be entitled to vote for four of the candidates. Primary paper ballots shall be printed consistent with the provisions in G.S. 163-140(c)(3). Printed paper ballots may be used in the general election ordered herein.

Sec. 11. The terms of the County Commissioners elected at the general election set in this act shall commence on the first Monday of the month next succeeding the month in which said general election is held, and their terms shall expire on the same dates their terms would have expired had said County Commissioners been elected at the general election held in November, 1982.

Sec. 12. The provisions of this act shall be temporary and shall appply only to the primaries and election ordered herein and its provisions shall expire following final certification of the primaries and general election ordered herein.

Sec. 13. In the event any portion of this act is held unconstitutional or invalid by a State or Federal Court or is unenforceable because of objection interposed by the United States Department of Justice under the Voting Rights

Act of 1965 or if the United States Department of Justice imposes requirements in addition to those set forth herein in connection with the primaries and election herein ordered, which additional requirements are prerequisite to obtaining a nonobjection by the United States Attorney General under the Voting Rights Act of 1965, then and in any of said events, the State Board of Elections shall have authority to make reasonable interim rules and regulations with respect to the primaries and election herein ordered, and to implement any additional requirements which may be imposed as set forth above, in addition to or in lieu of the procedures set forth in this act, and such rules and regulations shall expire at the time set forth in Section 12 hereof.

Sec. 14. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of January, 1983.

H. B. 23 CHAPTER 3

AN ACT TO AUTHORIZE A BEGINNING DATE FOR THE ORANGE COUNTY PARCEL IDENTIFIER INDEX.

The General Assembly of North Carolina enacts:

Section 1. Section 161-22.2(e)(1) of the North Carolina General Statutes is amended by adding a paragraph to read as follows:

"In any county in which a parcel identifier number index has been approved by the Secretary of Administration pursuant to G.S. 161-22.2 and made the official real property index by resolution of the board of commissioners on or before February 1, 1983, such index shall become effective as the official real property index of the county on February 1, 1983."

Sec. 2. This act shall apply to Orange County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of January, 1983.

H. B. 112 CHAPTER 4

AN ACT TO APPOINT FOUR MEMBERS TO THE BOARD OF EDUCATION OF THE WHITEVILLE CITY SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 172, Session Laws of 1977, is amended by rewriting the second sentence to read:

"Members of the Board elected in 1982 and thereafter shall take office on the first Tuesday in February next after their election, and the terms of office of their immediate predecessors shall end on that date."

Sec. 2. Notwithstanding Section 9 of Chapter 172, Session Laws of 1977, the members of the Board of Education of the Whiteville City School Administrative Unit to be appointed by the General Assembly in 1983 shall be appointed on or before the first Tuesday in February.

Sec. 3. Pursuant to Chapter 172, Session Laws of 1977, the following persons are appointed to the Board of Education for the Whiteville City School Administrative Unit, and they shall serve for a term of two years beginning on the first Tuesday in February 1983:

Richard L. Crutchfield, David Flowers,
Charles L. Lennon, and Katie Powell.

Sec. 4. Section 4 of Chapter 192, Session Laws of 1981, is amended by adding immediately after the number "1981" the following: "and ending on the first Tuesday in February of 1983".

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of February, 1983.

S. B. 6 CHAPTER 5

AN ACT TO CLARIFY THE PROCESS OF CERTAIN APPEALS BY AREA MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE AUTHORITIES.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of G.S. 122-35.53(g) is rewritten to read:

"The Department may withdraw funds from a specific program of services not being administered in accordance with an approved plan and budget after written notice and subject to an appeal in accordance with G.S. 122-35.50 and G.S. 150A."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 10th day of February, 1983.

S. B. 11 CHAPTER 6

AN ACT TO ALLOW AREA MENTAL HEALTH, MENTAL RETARDATION, AND SUBSTANCE ABUSE BOARD MEMBERSHIP TO INCLUDE UP TO TWENTY-FIVE MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-35.40(a) is rewritten to read as follows:

"(a) The area mental health, mental retardation, and substance abuse board shall meet at least six times per year. Board membership shall be no less than 15 members and no more than 25 members. Meetings shall be called by the area board chairman or by three or more members of the board after notifying the area board chairman in writing."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of February, 1983.

H. B. 6 CHAPTER 7

AN ACT TO ALLOW THE SECRETARY OF REVENUE TO MAKE CONTRACTS CONCERNING THE HANDLING OF BULK MAIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-259 is amended by adding a new paragraph at the end of the section to read:

"Notwithstanding the provisions of this section, the Secretary of Revenue may contract with any person, firm or corporation to receive and address, sort, bag, or deliver to the United States Postal Service any bulk mailing originated by the Department of Revenue, and may deliver the mail to the contractor pursuant to the contract. To ensure performance of the contract, the contractor shall furnish a bond in a form and amount acceptable to the Secretary."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1983.

H. B. 26 CHAPTER 8

AN ACT TO ALLOW OPERATION OF A SNACK BAR AND CAFETERIA IN THE STATE LEGISLATIVE BUILDING AND DELETE THE AUTHORIZATION FOR CONCESSION STANDS IN THE STATE CAPITOL WHILE THE LEGISLATURE IS IN SESSION.

Whereas the only current authorization for operation of food service facilities in the Legislative Building is in the State budget, the Umstead Act not having been amended when the Legislative Building opened in 1963; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-58(c)(5) is rewritten to read:

"(5) The operation of a snack bar and cafeteria in the State Legislative Building."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1983.

H. B. 64 CHAPTER 9

AN ACT TO ALLOW THE CITY OF WINSTON-SALEM TO INCREASE THE TAX LEVY ON MOTOR VEHICLES TO A MAXIMUM OF FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a) is amended by adding immediately after the words "City of Charlotte" each time those words appear the words ", the City of Winston-Salem".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1983.

H. B. 93 CHAPTER 10

AN ACT TO AUTHORIZE THE CITY OF WINSTON-SALEM TO SET THE INTEREST RATE ON LOCAL ASSESSMENTS IN ACCORDANCE WITH GENERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Section 22 of Chapter 224, Private Laws of 1927, as amended by Chapter 434, Session Laws of 1963, is amended by rewriting the second sentence to read:

"If paid in installments, such installments shall bear interest at the interest rate authorized by G.S. 160A-233."

Sec. 2. Section 21 of Chapter 224, Private Laws of 1927, as amended by Chapter 47, Private Laws of 1929, and Chapter 168, Session Laws of 1957, is amended by deleting "at the rate of six per centum (6%) per annum from said date of confirmation of the assessment roll", and inserting in lieu thereof "at the rate authorized by G.S. 160A-233, and shall set out the rate so established".

Sec. 3. This act shall apply only to the City of Winston-Salem.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1983.

H. B. 145 CHAPTER 11

AN ACT TO CLARIFY THE BOUNDARY BETWEEN TYRRELL AND WASHINGTON COUNTIES.

Whereas, Chapter 36, Laws of 1799, divided Washington County from Tyrrell County; and

Whereas, the boundary between those two counties was set out in Chapters 36 and 37, Laws of 1799, and then changed in Chapter 70, Laws of 1801; and

Whereas, a dispute has arisen between the two counties over the location of the boundary; and

Whereas, with the approval of the Boards of Commissioners of Tyrrell and Washington Counties a survey was run, and the two counties have requested the General Assembly to clarify the boundary; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The boundary line between Tyrrell and Washington Counties from the Floodgate near the Collins House on the Somerset or Transportation Canal to the center line of Hyde Canal is as follows:

BEGINNING at a point which is shown and designated as Station A on a plat of survey to which reference is hereinafter made. Said point of beginning being North Carolina Geodetic Survey Marker (WAS -13 1976) which marker is set in a cement flood gate located near the southern end of the Somerset Canal, which center line is the western boundary of Tyrrell County and the eastern boundary of Washington County and from said point of beginning running thence South 40 degrees 08 minutes 05 seconds West along the center line of Somerset Canal 598.70 feet to a concrete monument which is shown and designated on said plat of survey as Station B and running thence due South 7,632.42 feet to a concrete monument designated as Survey Station C on said plat of survey; thence continuing due South 2114.26 feet to a concrete

monument designated as Station D; thence running South 13 degrees 03 minutes 31 seconds West 117.50 feet to Station E, said Station E being N. C. Geodetic Survey Marker (Dillard - 1976) on said plat of survey; thence running due South 2180.76 feet to Station F on said plat of survey, a concrete monument; thence running due South 2587.16 feet to Station H on said plat of survey, a concrete monument; thence continuing due South 2752.09 feet to Station I on said plat of survey, a concrete monument; thence continuing due South 2746.33 feet to Station J on said plat of survey, a concrete monument; thence continuing due South 7267.70 feet to Station K on said plat of survey, a concrete monument, and thence continuing due South 5373.32 feet to a concrete monument, Station L on said plat of survey; thence continuing due South 14.50 feet to the center line of Hyde Canal the terminus of the line herein described and being all of a line which constitutes a portion of the western boundary line of Tyrrell County and the eastern boundary line of Washington County as shown more particularly on a plat of survey entitled "County Division, Tyrrell County - Washington County", dated November 11, 1982, prepared by John C. Kirkman, Registered Land Surveyor, a copy of which is on file in Map Cabinet A, Slide 90, in the Office of the Register of Deeds of Tyrrell County and Map Cabinet 1, Slide 127, in the Office of the Register of Deeds of Washington County.

Sec. 2. This act shall be effective from and after January 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of February, 1983.

S. B. 7 CHAPTER 12

AN ACT TO CLARIFY LIABILITY FOR PAYMENT FOR LONG-TERM HOSPITALIZED CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-127.1(d) is amended by deleting the phrase "or skilled nursing facilities" and by substituting the following: "facilities, skilled nursing facilities, or hospitals".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1983.

S. B. 8 CHAPTER 13

AN ACT TO AUTHORIZE THE DEPARTMENT OF HUMAN RESOURCES TO ACT AS CONTRACTUAL INTERMEDIARY WITH THE FEDERAL GOVERNMENT TO ASSIST RECOVERY BY COUNTIES OF INTERIM WELFARE PAYMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-139.3 is amended by designating the present section as subsection (a) and by adding a new subsection (b), reading as follows:

"(b) The Department is authorized to enter into contracts with and to act as intermediary between any federal government agency and any county of this State for the purpose of assisting the county to recover monies expended by a county-funded financial assistance program; and, as a condition of such assistance, the county shall agree to hold and save harmless the Department

against any claims, loss, or expense which the Department might incur under the contracts by reason of any erroneous, unlawful, or tortious act or omission of the county or its officials, agents, or employees."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1983.

S. B. 10 CHAPTER 14

AN ACT TO AMEND G.S. 108A-24, 108A-41, AND 108A-42 TO CLARIFY PUBLIC ASSISTANCE PROGRAM DISABILITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108A-42 is rewritten to read as follows:

"(a) For purposes of G.S. 108A-41(b)(1), a person is permanently and totally disabled if:

(1) this person was receiving aid to the disabled assistance in December 1973, and continues to be disabled under the definition of disability, having a physical or mental impairment which substantially precludes him from obtaining gainful employment and this impairment appears reasonably certain to continue without substantial improvement throughout his lifetime; or

(2) this person applied for assistance on or after January 1, 1974, and is disabled under the Social Security standards.

(b) For purposes of G.S. 108A-41(d), a 'Certain Disabled' person is a person in a private living arrangement who is age 18 but less than age 65, having a physical or mental impairment which substantially precludes him from obtaining gainful employment, which impairment appears reasonably certain to continue without substantial improvement throughout his lifetime.

(c) Disability shall be reviewed by medical consultants employed by the Department. The final decision on the disability shall be made by these medical consultants under rules and regulations adopted by the Social Services Commission."

Sec. 2. G.S. 108A-41 is hereby amended to add "and prescribed by G.S. 108A-42(b)" between the word "Commission" and the period in the first sentence.

Sec. 3. G.S. 108A-24 is amended by repealing subdivision (4), and by redesignating subsections (5), (6), and (7) as subsections (4), (5), and (6).

Sec. 4. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of February, 1983.

S. B. 9 **CHAPTER 15**

AN ACT TO AMEND CHAPTER 110 OF THE GENERAL STATUTES TO ENSURE ACCESS TO THE FEDERAL PARENT LOCATOR SERVICES IN PARENTAL KIDNAPPING AND CHILD CUSTODY CASES.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 110 of the General Statutes is amended by adding a new statute to read:

"§ 110-139.1. *Access to federal parent locator service; parental kidnapping and child custody cases.*—(a) The parent locator service of the Department of Human Resources shall transmit, upon payment of the fee prescribed by federal law, requests for information as to the whereabouts of any absent parent or child to the federal parental locator service when such requests are made by judges, clerks of superior court, district attorneys, or United States attorneys, and when the information is to be used to locate the parent or child for the purpose of enforcing State or federal law with respect to the unlawful taking or restraint of a child or making or enforcing a child custody determination.

(b) For the purpose of this section, custody determination means a judgment, decree, or other order of the court providing for the custody or visitation of a child and includes permanent or temporary orders, and initial orders and modifications.

(c) All nonjudicial records maintained by the Department pertaining to the unlawful taking or restraint of a child or child custody determinations shall be confidential, and only individuals directly connected with the administration of the child support enforcement program and those authorized herein shall have access to these records."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1983.

H. B. 29 **CHAPTER 16**

AN ACT TO PROVIDE THAT VACANCIES ON THE MOORE COUNTY BOARD OF EDUCATION BE FILLED BY THAT BOARD, RATHER THAN BY THE COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Section 3(f) of Chapter 1051, Session Laws of 1965 is amended by deleting "Board of Commissioners of Moore County" and inserting in lieu thereof "Moore County Board of Education".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1983.

H. B. 35

CHAPTER 17

AN ACT TO REPEAL CERTAIN OBSOLETE CRIMINAL STATUTES REGARDING VAGRANCY AND TRAMPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-336, entitled "Persons classed as vagrants.", is hereby repealed.

Sec. 2. G.S. 14-338, entitled "Tramp defined and punishment provided; certain persons excepted.", is hereby repealed.

Sec. 3. G.S. 14-339, entitled "Trespassing and the carrying of dangerous weapons by tramps.", is hereby repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1983.

H. B. 65

CHAPTER 18

AN ACT TO AMEND THE NAME OF THE CLINICAL TOXICOLOGICAL LABORATORY LOCATED IN WINSTON-SALEM, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-95(g) is amended by deleting the words "Clinical Toxicological Lab, North Carolina Baptist Hospital" and substituting the following words therefor: "Toxicology Laboratory, Reynolds Health Center."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1983.

H. B. 81

CHAPTER 19

AN ACT TO AUTHORIZE THE TOWN OF VALDESE TO EXERCISE CERTAIN LAND ACQUISITION AND DISPOSAL PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Valdese, Chapter 847 of the 1977 Session Laws, is hereby amended by adding a new section in Article VI to follow Section 6.2 and to read:

"Sec. 6.3. Economic development.

A. As used in this section, the term 'economic development project' means an economic capital development project within a certain defined area or areas of the town as established by the town council comprising one or more lots, buildings, or other improvements and including any public or private facilities. Said project may include programs or facilities for improving downtown redevelopment, 'pocket of poverty' or other federal or state assistance programs which the town council determines to be in need of economic capital development or revitalization and which qualify for capital assistance under applicable federal or state programs.

B. (1) In addition to any other authority granted by law, the Town of Valdese may accept grants, expend funds, make grants or loans, acquire property and participate in economic development projects which the town council determines will enhance the economic development and revitalization of the town in accordance with the authority granted herein. Such project

may include both public and private lots, buildings or facilities financed in whole or in part by federal or state grants (including but not limited to urban development action grants) and may include any capital expenditures which the town council finds necessary to comply with conditions in any federal or state grant agreements and which the town council finds will complement the project and improve the public tax base and general economy of the town. Such projects may be partially financed with town funds received from federal or state sources and being granted or loaned to the private owner for said construction or renovation; in addition, other town funds from any sources may be used for acquisition, construction, leasing and operation of facilities by the town for the general public and for capital improvements to public facilities which will support and enhance the private facilities and the general economy of the town.

(2) When the town council finds that it will promote the economic development or revitalization of the town, the town may acquire, construct, and operate or participate in the acquisition, construction, ownership and operation of an economic development project or of specific buildings or facilities within such a project and may comply with any state or federal government grant requirements in connection therewith. The town may enter into binding contracts with one or more private parties or governmental units with respect to acquiring, constructing, owning or operating such a project. Such a contract may, among other provisions, specify the responsibilities of the town and the developer or developers and operators or owners of the project, including the financing of the project. Such a contract may be entered into before the acquisition of any real property necessary to the project by the town or the developer or other parties.

C. An economic development project may be constructed on property acquired by the developer or developers, or on property directly acquired by the town, or on property acquired by the Redevelopment Commission while exercising powers, duties and responsibilities pursuant to G.S. 160A-505.

D. In connection with an economic development project, the town may convey interests in property owned by it, including air rights over public facilities, as follows:

(1) If the property was acquired under the urban redevelopment law, the property interests may be conveyed in accordance with said law.

(2) If the property was acquired by the town directly, the town may convey property interests by any procedure set forth in its charter or the general law or by private negotiation or sale.

E. The town may contract for the operation of any public facility or facilities included in an economic development project by a person, partnership, firm or corporation, public or private. In addition, the town, upon consideration, may contract through lease or otherwise whereby it may operate privately constructed parking facilities to serve the general public. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the town."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1983.

H. B. 84

CHAPTER 20

AN ACT TO ALLOW CRIMINAL SESSIONS OF BRUNSWICK COUNTY SUPERIOR COURT IN FACILITIES OTHER THAN THE COURTHOUSE AT THE BRUNSWICK COUNTY GOVERNMENT CENTER WHEN THE COURTROOM IS INADEQUATE FOR JOINT TRIAL OR HEARING OF MULTIPLE DEFENDANTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 7A of the General Statutes is amended by adding a new G.S. 7A-43 to read as follows:

"§ 7A-43. *Criminal sessions of superior court in Brunswick County multiple defendant cases.*—The senior regular resident superior court judge of the Thirteenth Judicial District, a superior court judge regularly assigned to hold the courts of the Thirteenth Judicial District, or a superior court judge presiding or designated to preside over a scheduled session of the superior court of Brunswick County at a session in which multiple defendants are scheduled for a joint trial or joint motions hearing may designate a suitable place for the holding of a criminal session of Brunswick County Superior Court for the joint trial or joint motions hearing of multiple defendants when the courtroom facilities of the county courthouse are inadequate to accommodate such joint trial or joint motions hearing.

The court may on its own motion, on motion of the State, or on motion of any defendant, inquire into the adequacy of the courtroom facilities to accommodate a joint trial or a joint hearing of multiple defendants. If the court determines that the courtroom facilities are inadequate, the court may designate some other suitable facility at the county seat or at some other location within the county for the trial or hearing of such cases. This designated facility must be adequate to accommodate a joint trial or joint motions hearing of multiple defendants. However, such designation by the court cannot be merely for the convenience of the parties or of the court; the court shall make such designation only when it is in the best interests of justice and where it would be impossible or impractical to conduct such joint trial or joint motions hearing in the courthouse at the county seat. Any such designation made under this section must be with the approval of the senior regular resident superior court judge of the Thirteenth Judicial District and the Administrative Officer of the Courts and is authorized only for cases in the superior court of Brunswick County. Unless all parties consent to any such designation, the court must make written findings to support any designation made under this section."

Sec. 2. This act is effective upon ratification, and shall expire on July 1, 1985.

In the General Assembly read three times and ratified, this the 17th day of February, 1983.

H. B. 103 CHAPTER 21

AN ACT TO PROVIDE THAT PERMITS FOR PYROTECHNIC DISPLAYS WITHIN INCORPORATED MUNICIPALITIES IN FORSYTH COUNTY SHALL BE GRANTED BY THE CITY COUNCIL INSTEAD OF THE COUNTY COMMISSIONERS, AND TO PROVIDE THAT THE COUNTY COMMISSIONERS MAY DELEGATE THEIR PERMIT GRANTING POWERS RELATING TO PYROTECHNIC DISPLAYS AND SALES OF EXPLOSIVES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-410 is amended by adding immediately after the word "discharged" the third time it appears the words "if to be exhibited, used or discharged within the county but outside the corporate limits of any municipality in the county, but if the pyrotechnics are to be exhibited, used or discharged within the corporate limits of any municipality in the county, it shall be necessary to secure such previous written authority from the governing body of the municipality".

Sec. 2. G.S. 14-410 is further amended by adding the following new language at the end:

"For the purpose of this section, 'municipality' is any incorporated city, town, or village which levied an ad valorem tax in that year or the previous year."

Sec. 3. G.S. 14-413 is amended by adding immediately after the word "county", the words "or the governing body of any municipality, as authorized by G.S. 14-410".

Sec. 4. Section 3 of Chapter 117, Session Laws of 1981, is amended by deleting "Mecklenburg County", and inserting in lieu thereof "Mecklenburg and Forsyth Counties".

Sec. 5. Sections 1, 2, and 3 of this act apply to Forsyth County only.

Sec. 6. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1983.

S. B. 48 CHAPTER 22

AN ACT TO ALLOW "P. C." IN A CORPORATE NAME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55B-5 is amended by rewriting the fifth line to read:

"tion', 'P. A.', 'Professional Corporation', or 'P. C.' in lieu of the corporate designations specified in Chapter 55; and".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1983.

S. B. 33 **CHAPTER 23**

AN ACT TO AUTHORIZE THE DEPARTMENT OF HUMAN RESOURCES TO COMPROMISE ACCOUNTS, FIX PAYMENTS AND DETERMINE WHO IS ABLE TO PAY FOR SERVICES RENDERED TO THE PUBLIC.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-118.1 is amended and rewritten to read:

"§ 143-118.1. *Secretary of Human Resources may compromise account.*—The Secretary of Human Resources or the agent of the Secretary to whom this power has been delegated by the Secretary of Human Resources is hereby empowered to enter into contracts of compromise of accounts owing the said institutions for past, present or future care at the said institutions, including but not limited to the authority to enter into a contract to charge nothing, which contract shall be binding on the respective institution under the terms and for the period specified in such contract. The rate of charge fixed by such contract shall be paid on a monthly basis, or in lump sum for those amounts already accrued for the duration of the contract; said rates or decision to make no charge shall be determined in the discretion of the Secretary or the agent by the ability to pay of the patient or those responsible in law for his support. In any action by any of the said institutions for the recovery of the cost of the care, maintenance and treatment of any inmate, a verified and itemized statement of account accompanied by a contract entered into pursuant to this section shall have the same effect in instituting a *prima facie* case as the statement of account filed pursuant to G.S. 143-118. This section shall not be construed as mandatory and if such contract is not entered into or shall terminate, or if the obligor shall default in the payment of the said compromise amount or any installment thereof, then the full monthly charge shall accrue on the patient's account."

Sec. 2. G.S. 143-119 is amended and rewritten to read:

"§ 143-119. *Payments.*—Such cost, when so fixed and determined by the Secretary of Human Resources or the agent of the Secretary to whom this power has been delegated by the Secretary of Human Resources shall be paid by the patient, pupil or inmate thereof, or by his parent, guardian, trustee or other person legally responsible therefor, and the payment thereof shall constitute a valid expenditure of the control of such funds, and a receipt for the payment of such costs in the hands of such fiduciary shall be a valid voucher to the extent thereof in the settlement of his accounts of his trust. Immediately upon the determination of the cost, as herein provided for, the Director of the institution shall notify the patient, pupil, inmate, parent, guardian, trustee, or such other person who shall be legally responsible for the payment thereof, of the monthly amount thereof, and such statement shall be rendered from month to month. The Secretary or agent is vested with full and complete authority to arrange with the patient, pupil, inmate, parent, guardian, trustee, or other person legally responsible for the cost, for the payment of any portion of such cost monthly or otherwise, in the event such patient, pupil, inmate, parent, guardian, trustee or other person legally responsible therefor shall not be able to pay the total cost. The head of the various institutions shall annually file with the Auditor of the State a list of all unpaid accounts. The provisions of the Article directing the Secretary or agent to ascertain which of the inmates are nonindigent and able to pay for their care, maintenance and treatment, and also

directing said Secretary or agent to make certain periodical demands upon the guardians or other persons responsible for said inmates for the payment of said charges, and which further directs the Secretary or agent to remove all of those inmates found able to pay but who refuse to pay and all of the other provisions of this Article relating to the manner in which the Secretary or agent shall collect said costs, shall be construed to be directory provisions on the part of the Secretary or agent and not mandatory, and the failure on the part of the Secretary or agent to perform any or all of said provisions shall not affect the right of the State institutions so named to recover in any action brought for that purpose, either during the lifetime of said inmates or after their death, in an action against their guardian if alive, or other fiduciary, or against the inmate himself, and if dead, against their personal representatives for the cost of their care, maintenance and treatment in said institutions."

Sec. 3. G.S. 143-120 is amended and rewritten to read:

"§ 143-120. *Determining who is able to pay.*—From and after March 4, 1925, the Secretary of Human Resources or the agent of the Secretary to whom this power has been delegated by the Secretary of Human Resources shall ascertain which of the various patients, pupils or inmates thereof, or which of the parents, guardians, trustees, or other persons legally responsible therefor, are financially able to pay the cost, to be fixed and determined by this Article, and so soon as it shall be ascertained such patient, pupil, inmate, parent, guardian, trustee or other person legally responsible therefor shall be notified of such cost, and in general of the provisions of this Article and such patient, pupil, inmate or the parent, guardian, trustee, or other person legally responsible therefor shall have the option to pay the same or to remove the patient, pupil, or inmate from such institution, unless such person was committed by an order of a court of competent jurisdiction, in which event the liability for the cost as fixed by this Article shall be fixed or determined and payment shall be made in accordance with the terms of this Article."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1983.

S. B. 35 CHAPTER 24

AN ACT PERTAINING TO THE NUMBER, ELECTION, TERM AND CLASSIFICATION OF STATE BANK DIRECTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-67 is amended in the second sentence by deleting the words "one year" and substituting "the term for which they are elected".

Sec. 2. G.S. 53-67 is amended by adding a sentence at the end to read:

"Aside from the specific provisions of this section, the number, election, term and classification of the directors of banks doing business under this Chapter shall be governed by the provisions of the Business Corporation Act."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1983.

S. B. 45 CHAPTER 25

AN ACT TO MAKE TECHNICAL AMENDMENTS TO G.S. 122-35.53, ALLOCATION OF FUNDS TO AREA PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-35.53 is amended by adding two new subsections to read as follows:

"(h) Notwithstanding the provisions of G.S. 122-35.53(b), and in addition to the purposes listed in such subsection, the funds allocated by the Department of Human Resources for services for members of the class identified in *Willie M., et al. vs. Hunt, et al.* (C-C-79-294, Western District) may be used for the purchase, alteration, improvement or rehabilitation of real estate owned or to be owned by a nonprofit corporation and used or to be used as a treatment facility as that term is defined in Chapter 122 of the North Carolina General Statutes.

(i) Notwithstanding the provisions of G.S. 122-35.53(c), and in addition to the purposes listed in such subsection, the funds allocated by the Department of Human Resources for services for members of the class identified in *Willie M., et al. vs. Hunt, et al.* (C-C-79-294, Western District) may be used for the purchase, alteration, improvement or rehabilitation of real estate used by area mental health authorities so long as the title to such real estate is vested in the county where the real estate is located or in any other governmental entity created or authorized by North Carolina law. However, should such property cease to be used in accordance with the plan submitted under G.S. 122-35.53(a), the unamortized portion of funds expended under this subsection for the purchase, alteration, improvement or rehabilitation of real estate shall be returned to the Department in accordance with rules adopted by the Department."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1983.

H. B. 5 CHAPTER 26

AN ACT TO TRANSFER RESPONSIBILITY FOR COLLECTING INCOME AND FRANCHISE TAXES ON SAVINGS AND LOAN ASSOCIATIONS FROM THE SAVINGS AND LOAN DIVISION OF THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF REVENUE.

The General Assembly of North Carolina enacts:

Section 1. Article 8D of Subchapter I of Chapter 105 of the General Statutes is rewritten to read:

"Article 8D.

"Schedule I-D. Taxation of Savings and Loan Associations.

"§ 105-228.22. *Application.*—This Article applies to all savings and loan associations and building and loan associations doing business in this State, whether organized under the laws of this State, another state, or the Home Owners Loan Act of 1933. All such associations are hereinafter referred to as savings and loan associations.

"§ 105-228.23. *Income and franchise taxes.*—(a) Income tax. Every savings and loan association shall annually file an income tax return with the Secretary of

Revenue and pay an income tax equal to that which the association would be required to pay under Article 4 of Subchapter I of this Chapter if it was not exempt from that Article.

(b) Franchise tax. Every savings and loan association shall annually file a franchise tax return with the Secretary of Revenue and pay a franchise tax equal to that which the association would be required to pay under Article 3 of Subchapter I of this Chapter if it was subject to taxation under that Article. For purposes of this tax, 'capital stock' does not include deposits in a savings and loan association.

(c) Payment; returns. Payment of the taxes levied in this section is due when the return is filed. The due dates of the returns required by this section are the same as those prescribed for corporations in Articles 3 and 4 of Subchapter I of this Chapter. All provisions of Articles 3 and 4 of Subchapter I of this Chapter, not inconsistent with this Article, apply in administering the taxes imposed herein.

"§ 105-228.24. *Tax limitations.*—(a) The taxes levied in this Article are in lieu of all other taxes except:

(1) Ad valorem taxes imposed upon real property and tangible personal property;

(2) Ad valorem taxes imposed upon intangible personal property under G.S. 105-199, 105-200, 105-204 and 105-205; and

(3) Sales and use taxes levied by the State or any of its taxing units.

(b) Counties, cities and towns may not levy a license tax on a savings and loan association subject to taxation under this Article."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of February, 1983.

H. B. 7 CHAPTER 27

AN ACT REGARDING THE DISTRIBUTION OF INTANGIBLE TAX REVENUE COLLECTED DURING FISCAL YEAR 1982-83.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of Section 70 of Chapter 1282 of the 1981 Session Laws (Regular Session, 1982) is rewritten to read:

"To accomplish this distribution, the deductions from net collections required by G.S. 105-213(a) for the fiscal year ending June 30, 1983, shall be reduced by the amount of the unexpended funds."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1983.

H. B. 17

CHAPTER 28

AN ACT TO ENSURE THAT ORGANIZATIONS THAT ARE EXEMPT FROM FEDERAL INCOME TAX ARE ALSO EXEMPT FROM STATE CORPORATE INCOME AND FRANCHISE TAX.

The General Assembly of North Carolina enacts:

Section 1. That part of G.S. 105-130.11(a) preceding the colon is rewritten to read:

"(a) Except as provided in subsections (b) and (c), the following organizations and any organization that is exempt from federal income tax under the Internal Revenue Code referred to in G.S. 105-130.3 are exempt from the tax imposed under this Division."

Sec. 2. G.S. 105-125 is amended by adding a new sentence at the end of the first paragraph to read:

"In addition, absent a specific provision to the contrary, the taxes levied in this Article do not apply to any organization that is exempt from federal income tax under the Internal Revenue Code referred to in G.S. 105-130.3."

Sec. 3. This act is effective for taxable years beginning on or after January 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of February, 1983.

H. B. 19

CHAPTER 29

AN ACT TO ALLOW LESSORS OF MOTOR VEHICLES TO ASSUME PRIMARY RESPONSIBILITY FOR PAYMENT OF THE SPECIAL FUELS AND HIGHWAY USE TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-449.22 is rewritten to read:

"§ 105-449.22. *Leased motor vehicles.*—(a) Except as provided in this section, the lessee of a motor vehicle, and not the lessor of the motor vehicle, is the 'user,' 'user-seller,' or 'supplier,' as the case may be, for the purposes of this Article.

(b) A lessor of a motor vehicle who gives written notice, by filing a report or otherwise, to the secretary that the lessor desires to be taxed as a user, user-seller or supplier may be treated by the secretary as a user, user-seller, or supplier with respect to a motor vehicle leased to another by him as well as fuel consumed by the leased motor vehicle when the lessor supplies or pays for the fuel consumed by the motor vehicle or makes rental or other charges calculated to include the cost of the fuel. A lessee may exclude from reports made pursuant to this Article a motor vehicle of which he is the lessee if that motor vehicle is leased from a lessor who is a user, user-seller, or supplier pursuant to this section.

(c) Subsections (a) and (b) govern the primary liability of lessors and lessees of motor vehicles under this Article. Both the lessor and lessee, however, are jointly and severally liable for compliance with this Article."

Sec. 2. G.S. 105-449.42 is amended by deleting the last sentence.

Sec. 3. Article 36B of Chapter 105 of the General Statutes is amended by adding a new section immediately after G.S. 105-449.42 to read:

"§ 105-449.42A. *Leased motor vehicles.*—(a) Except as provided in this section, the lessee of a motor vehicle, and not the lessor of the motor vehicle, is a 'motor carrier' for the purposes of this Article.

(b) A lessor of a motor vehicle who gives written notice, by filing a report or otherwise, to the secretary that the lessor desires to be taxed as a motor carrier may be treated by the secretary as a motor carrier with respect to a motor vehicle leased to another by him as well as motor fuel consumed by the leased motor vehicle when the lessor supplies or pays for the motor fuel consumed by the motor vehicle or makes rental or other charges calculated to include the cost of the fuel. A lessee motor carrier may exclude from reports made pursuant to this Article a motor vehicle of which he is the lessee if that motor vehicle is leased from a lessor who is a motor carrier pursuant to this section.

(c) Subsections (a) and (b) govern the primary liability of lessors and lessees of motor vehicles under this Article. Both the lessor and lessee, however, are jointly and severally liable for compliance with this Article."

Sec. 4. This act shall become effective July 1, 1983, and shall apply to taxable periods beginning on and after that date.

In the General Assembly read three times and ratified, this the 23rd day of February, 1983.

S. B. 12 CHAPTER 30

AN ACT TO REQUIRE THAT PARENTAL CONSENTS TO ADOPTIONS BE DULY SWORN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-7(a) is hereby amended by adding a new sentence to the end to read:

"The party consenting to an adoption must sign said consent and acknowledge his signature before any person empowered to take acknowledgements of signatures pursuant to Chapter 47 of the General Statutes of North Carolina."

Sec. 2. This act shall become effective on October 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of February, 1983.

H. B. 20 CHAPTER 31

AN ACT TO TAX ALL INCOME OF AN EXEMPT CORPORATION THAT IS UNRELATED TO THE BASIS OF THE CORPORATION'S EXEMPTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.11(b) is amended by rewriting the phrase "this paragraph shall not apply to interest, royalties, dividends or rents" to read:

"this paragraph does not apply to interest, royalties, dividends or rents unless this income is determined to be 'unrelated business taxable income' under the Internal Revenue Code referred to in G.S. 105-130.3".

Sec. 2. This act is effective for taxable years beginning on and after January 1, 1983.

In the General Assembly read three times and ratified, this the 24th day of February, 1983.

H. B. 83 CHAPTER 32

AN ACT TO PERMIT ASSISTANT FIRE MARSHALS TO USE A RED LIGHT AND SIREN ON THEIR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-130.1(b)(12) is rewritten to read:

"(12) A vehicle operated by any county fire marshal, assistant fire marshal, or civil preparedness coordinator in the performance of his duties, regardless of whether or not the county owns the vehicle; and".

Sec. 2. The third paragraph of G.S. 20-125(b) is amended by adding immediately after the words "county fire marshals" the words ", assistant fire marshals,".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of February, 1983.

S. B. 32 CHAPTER 33

AN ACT TO AMEND CHAPTER 110 OF THE GENERAL STATUTES TO PROVIDE FOR THE USE OF UNEMPLOYMENT COMPENSATION BENEFITS FOR CHILD SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 110 of the General Statutes is amended by adding a new section to read as follows:

"§ 110-136.2. *Use of unemployment compensation benefits for child support.*—(a) A responsible parent may voluntarily assign unemployment compensation benefits to a child support enforcement agency to satisfy a child support obligation. An assignment of less than the full amount of the support obligation shall not relieve the responsible parent of liability for the remaining amount.

(b) Upon notification of a voluntary assignment by the Department of Human Resources, the Employment Security Commission shall deduct and withhold the amount assigned by the responsible parent as provided in G.S. 96-17.

(c) Any amount deducted and withheld shall be paid by the Employment Security Commission to the Department of Human Resources for distribution as required by federal law.

(d) Voluntary assignment of unemployment compensation benefits shall remain effective until the Employment Security Commission receives notification from the Department of Human Resources of an express written revocation by the responsible parent.

(e) The Department of Human Resources shall ensure that payments received under this section are properly credited against the responsible parent's child support obligation.

(f) When a responsible parent declines to execute a voluntary assignment of unemployment compensation benefits, a child support enforcement agency may initiate garnishment proceedings as provided in G.S. 110-136. For purposes of

such proceedings, 'disposable earnings' includes unemployment compensation benefits. The third-party garnishee defendant in such proceedings, the Employment Security Commission, is deemed to waive notice and consent to jurisdiction for entry of an appropriate court order."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of February, 1983.

S. B. 62 CHAPTER 34

AN ACT TO PROVIDE THAT A TECHNICIAN WITH A GENERAL LICENSE CAN TEST SPEED-MEASURING INSTRUMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 8-50.2(c) is amended by inserting the following language at the end of the second line: "or general".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of February, 1983.

S. B. 72 CHAPTER 35

AN ACT TO MAKE DOGS AND OTHER ANIMALS IN A PERSON'S POSSESSION THE SUBJECT OF LARCENY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-84 is rewritten to read:

"§ 14-84. *Animals subject to larceny.*—All common law distinctions among animals with respect to their being subject to larceny are abolished. Any animal that is in a person's possession is the subject of larceny."

Sec. 2. G.S. 67-15 is repealed.

Sec. 3. This act shall become effective for offenses committed on or after October 1, 1983.

In the General Assembly read three times and ratified, this the 24th day of February, 1983.

S. B. 27 CHAPTER 36

AN ACT TO ABOLISH THE OFFICE OF CORONER IN MOORE COUNTY SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. The Office of Coroner in Moore County is abolished, and Chapter 152 of the General Statutes is not applicable to Moore County.

Sec. 2. Section 1 of this act shall become effective only if approved by the voters of Moore County. The Moore County Board of Elections shall hold a referendum on the day of the next statewide primary election, statewide election, or statewide general election, whichever comes first, on the question of approval of Section 1 of this act. The referendum shall be held in accordance with the provisions of Chapter 163 of the General Statutes, and the form of the ballot shall be:

"☐ FOR approval of an act abolishing the Office of Coroner in Moore County.

□ AGAINST approval of an act abolishing the Office of Coroner in Moore County."

Sec. 3. In the event that a majority of votes are cast in favor of the approval of Section 1 of this act, then it shall become effective on the first day of the second calendar month after the election. In the event that less than a majority of the votes are cast in favor of the approval of Section 1 of this act, it shall have no force or effect.

Sec. 4. The Moore County Board of Elections shall file a certification of the results of the election with the Secretary of State.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1983.

H. B. 135 CHAPTER 37

AN ACT TO AMEND THE AGE REQUIREMENT FOR PSYCHOLOGISTS TO CONFORM WITH G.S. 93B-9.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-270.11(a)(1)a. is amended by deleting "21" and inserting in lieu thereof "18".

Sec. 2. G.S. 90-270.11(b)(1)a. is amended by deleting "21" and inserting in lieu thereof "18".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1983.

H. B. 8 CHAPTER 38

AN ACT TO PROVIDE AN OPTIONAL PRIVILEGE LICENSE TAX FOR PERSONS ENGAGED IN RETAIL VARIETY SALES BUSINESSES FOR WHICH PRIVILEGE LICENSES ARE REQUIRED.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 105 is amended by adding a new section to read:

"§ 105-102.4. *Optional license tax on persons engaged in retail variety sales business.*—(a) Any person, firm or corporation required to procure a license imposed under one or more of the statutes listed in subsection (b) for the same location may, upon application to the Secretary of Revenue and payment of a tax of one hundred dollars ($100.00), obtain a 'retail variety store privilege license' for the privilege of engaging, at that location, in one or more of the businesses taxed in the listed sections.

(b) A retail variety store privilege license replaces the licenses imposed in the following sections and relieves the licensee of liability for the taxes imposed in these sections: G.S. 105-49, 105-51, 105-65.2, 105-80(b), 105-82 and 105-89(a).

(c) Counties, cities and towns may not levy a license tax under this section. This section shall not affect the authority of cities and towns to levy taxes under G.S. 160A-211 or the authority of counties, cities and towns to levy taxes under G.S. 105-49, 105-51, 105-65.2, 105-80(b), 105-82 and 105-89(a) if the indicated statute authorizes these entities to do so."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 28th day of February, 1983.

H. B. 36 CHAPTER 39

AN ACT TO REPEAL CERTAIN OBSOLETE CRIMINAL STATUTES REGARDING DISTURBANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-272, entitled "Disturbing picnics, entertainments and other meetings.", is hereby repealed.

Sec. 2. G.S. 14-273, entitled "Disturbing schools and scientific and temperance meetings; injuring property of schools and temperance societies.", is hereby repealed.

Sec. 3. G.S. 14-274, entitled "Disturbing students at schools for women.", is hereby repealed.

Sec. 4. G.S. 14-275, entitled "Disturbing religious congregations.", is hereby repealed.

Sec. 5. G.S. 14-288.4(a) is amended by adding a new subdivision (7) to read:

"(7) Disrupts, disturbs, or interferes with a religious service or assembly or engages in conduct which disturbs the peace or order at any religious service or assembly."

Sec. 6. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 28th day of February, 1983.

H. B. 43 CHAPTER 40

AN ACT TO MAKE CERTAIN CHANGES IN THE GOVERNOR'S ADVISORY COUNCIL ON AGING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-180 is amended by inserting immediately before the word "Secretary" wherever it appears the phrase "the Governor and".

Sec. 2. G.S. 143B-181 is amended by rewriting the first two paragraphs to read:

"The Governor's Advisory Council on Aging of the Department of Human Resources shall consist of 33 members, 29 members to be appointed by the Governor, two members to be appointed by the Lieutenant Governor, and two members to be appointed by the Speaker of the House of Representatives. The composition of the Council shall be as follows: one representative of the Department of Administration; one representative of the Department of Cultural Resources; one representative of the Employment Security Commission; one representative of the Teachers' and State Employees' Retirement System; one representative of the Commissioner of Labor; one representative of the Department of Public Education; one representative of the Department of Natural Resources and Community Development; one representative of the Department of Insurance; one representative of the Department of Crime Control and Public Safety; one representative of the Department of Community Colleges; one representative of the School of Public Health of The University of North Carolina; one representative of the School

of Social Work of The University of North Carolina; one representative of the Agricultural Extension Service of North Carolina State University; one representative of the collective body of the Medical Society of North Carolina; and 19 members at large. The at large members shall be citizens who are knowledgeable about services supported through the Older Americans Act of 1965, as amended, and shall include persons with greatest economic or social need, minority older persons, and participants in programs under the Older Americans Act of 1965, as amended. The Governor shall appoint 15 members at large who meet these qualifications and are 60 years of age or older. The four remaining members at large, two of whom shall be appointed by the Lieutenant Governor and two of whom shall be appointed by the Speaker of the House of Representatives, shall be broadly representative of the major private agencies and organizations in the State who are experienced in or have demonstrated particular interest in the special concerns of older persons. At least one of each of the at-large appointments of the Lieutenant Governor and the Speaker of the House of Representatives shall be persons 60 years of age or older. The Council shall meet at least quarterly.

Members at large shall be appointed for four-year terms and until their successors are appointed and qualify. Ad interim appointments shall be for the balance of the unexpired term."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1983.

H. B. 85 CHAPTER 41

AN ACT TO REGULATE HUNTING IN LENOIR COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt, take or kill any animal or bird on or from the right-of-way of any public road, street, highway or thoroughfare.

Sec. 2. It is unlawful for anyone to discharge his hunting dogs onto the property of another without the written consent of the landowner (i) if that property is posted as provided in G.S. 14-159.7 or (ii) if that property has been registered and posted as provided in G.S. 113-282 and he has reason to know the property has been posted.

Sec. 3. Violation of this act is a misdemeanor punishable for a first conviction by a fine of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00) or imprisonment not to exceed 30 days, and punishable for a second conviction within three years by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), by imprisonment not to exceed 90 days or by both.

Sec. 4. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by deputy sheriffs and by other peace officers with general subject matter jurisdiction.

Sec. 5. This act applies only to Lenoir County.

Sec. 6. This act shall become effective three months after ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1983.

H. B. 95 CHAPTER 42

AN ACT REGARDING AMBULANCE SERVICE IN CHEROKEE, CLAY, DAVIE, HOKE, MACON, WILKES, AND YADKIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-111.2 is amended by inserting in the last sentence, as they fall alphabetically, the counties "Cherokee", "Clay", "Hoke", "Macon",.

Sec. 2. G.S. 14-111.3 is amended by inserting in the title and the last sentence, as they fall alphabetically, the counties "Cherokee", "Clay", "Davie", "Hoke", "Macon", "Wilkes", and "Yadkin".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1983.

H. B. 111 CHAPTER 43

AN ACT TO AMEND G.S. 20-88 RELATING TO PROPERTY-HAULING VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-88(b) is hereby amended by striking the "Schedule of Weights and Rates" for Common Carriers of Property appearing as the third Schedule of Weights and Rates thereunder.

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 3rd day of March, 1983.

H. B. 120 CHAPTER 44

AN ACT TO AMEND G.S. 44A-4 RELATING TO SALE OF MOTOR VEHICLES TO SATISFY LIENS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44A-4(c) is hereby amended by inserting after the first sentence thereof the sentence:

"If the property upon which the lien is claimed is a motor vehicle, the sale may not be made until notice is given to the Commissioner of Motor Vehicles pursuant to G.S. 20-114(c)."

Sec. 2. G.S. 44A-4(e)(1) is hereby amended by adding a new sub-subdivision to be designated sub-subdivision a., which new sub-subdivision shall read as follows:

"a. Shall notify the Commissioner of Motor Vehicles as provided in G.S. 20-114(c) if the property upon which the lien is claimed is a motor vehicle; and".

G.S. 44A-4(e)(1) is further amended by relettering the existing sub-subdivisions a. and b. as b. and c. respectively.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1983.

H. B. 126 CHAPTER 45

AN ACT TO CHANGE THE DATE WHEN THE TERM OF OFFICE OF THE SHERIFF OF CLEVELAND COUNTY BEGINS, IN ORDER TO CONFORM TO GENERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. The term of office of the sheriff of Cleveland County elected at the general election of county officers in 1986 shall begin on the first Monday of April in 1987 and shall expire on the first Monday of December in 1990.

Sec. 2. The term of office of the sheriff of Cleveland County elected at the general election of county officers in 1990 shall begin on the first Monday of December in 1990 and shall expire four years thereafter. Thereafter, the election and term of office of the sheriff of Cleveland County shall be in accordance with the general laws for election of sheriff contained in G.S. Chapter 162 and G.S. Chapter 163.

Sec. 3. Chapter 205 of the 1915 Public-Local Laws is hereby repealed; provided, the repeal of Chapter 205 shall not operate to shorten the term of office of the sheriff of Cleveland County currently holding office. Any vacancy in the current term of the office shall be filled, pursuant to G.S. 162-5.1, for the remainder of the unexpired term.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1983.

H. B. 102 CHAPTER 46

AN ACT TO CLARIFY THE DEFINITION OF DAY-CARE FACILITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-86(3) is rewritten to read:

"(3) 'Day-care facility' includes any child day-care center or child care arrangement which provides day care for more than five children, not including the operator's after-school children, under the age of 13, on a regular basis of at least once per week for more than four hours but less than 24 hours per day, regardless of the time of day and regardless of whether the same children attend regularly. The following are not included: public schools; nonpublic schools whether or not accredited by the State Department of Public Instruction, which regularly and exclusively provide a course of grade school instruction to children who are of public school age; summer camps having children in full-time residence; summer day camps which are run by nonprofit organizations exempt from taxation pursuant to Article 4 of Chapter 105 of the General Statutes; Bible schools conducted during vacation periods; and cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment."

Sec. 2. G.S. 110-91(6) is amended by deleting the period from the end and by substituting the following: "provided, also, that a facility operating exclusively during the evening and early morning hours, between 6:00 p.m. and 6:00 a.m., need not meet the out-door play area requirements mandated by this subdivision."

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 4th day of March, 1983.

H. B. 163 CHAPTER 47

AN ACT TO AMEND THE QUALIFICATIONS FOR LICENSURE IN ARCHITECTURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 83A-7(a) is rewritten to read:

"(a) Licensing by Examination. Any individual who is at least 18 years of age and of good moral character may make written application for examination by completion of a form prescribed by the Board accompanied by the required application fee. Subject to qualification requirements of this section, the applicant shall be entitled to an examination to determine his qualifications for licensure.

(1) The qualification requirements for registration as a duly licensed architect shall be:

a. A degree in architecture from a college or university where the degree program has been approved by the Board, or professional education equivalents as specified by rules of the Board, and at least three years practical training and experience as specified by rules of the Board.

b. The successful completion of a licensure examination in architecture as specified by the rules of the Board.

(2) The Board shall adopt rules to set requirements for professional education and equivalents, practical training and experience, and examination which must be met by applicants for licensure and which may be based on the published guidelines of nationally recognized councils or agencies for the accreditation, examination, and licensing for the architectural profession."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1983.

H. B. 25 CHAPTER 48

AN ACT TO EXPAND THE MEMBERSHIP OF THE ADVISORY BUDGET COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 143-4 is amended by deleting "two other Senators" and inserting "three other Senators", by deleting "two other Representatives" and inserting "three other Representatives", and by deleting "four other persons" and inserting in lieu thereof "five other persons".

Sec. 2. G.S. 143-4 is amended by adding the following new sentence at the end of the first paragraph:

"If the Governor appoints any members of the General Assembly to the Advisory Budget Commission, he must appoint an equal number from the Senate and House of Representatives."

Sec. 3. G.S. 143-4 is amended by deleting the word "eight" and substituting in lieu thereof the word "ten."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1983.

H. B. 24 CHAPTER 49

AN ACT TO PROVIDE ALTERNATIVE BEGINNING DATES FOR PARCEL IDENTIFIER INDEXES.

The General Assembly of North Carolina enacts:

Section 1. Section 161-22.2(e)(1) of the North Carolina General Statutes is amended to read as follows: "An approved parcel identifier number index shall become effective as the official real property index of the county as of the first day of July or the first day of January, as the board of commissioners directs, following approval by the Secretary of Administration."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1983.

H. B. 128 CHAPTER 50

AN ACT TO AMEND ARTICLE 3 OF CHAPTER 20 OF THE GENERAL STATUTES RELATING TO AUTHORITY TO PROVIDE SPECIAL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 20 of the General Statutes is hereby amended by adding a new section to read:

"§ 20-85.1. *Authority to provide special services.*—(a) The owner of a vehicle registered in North Carolina may renew that vehicle registration by mail. A postage and handling fee of one dollar ($1.00) per vehicle to be registered shall be charged for this service.

(b) The Commissioner and such employees of the Division as he may designate are hereby authorized to prepare and deliver upon request a certificate of title, charging a fee of twenty-five dollars ($25.00) for one day title service, in lieu of the title fee required by G.S. 20-85.

(c) All funds collected under this section shall be deposited in the Highway Fund."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 7th day of March, 1983.

S. B. 68 CHAPTER 51

AN ACT TO AMEND AND CLARIFY THE PENALTIES FOR DRIVING ON A PERMANENTLY REVOKED LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-28(b) is amended by deleting the words "imprisoned for not less than one year" and substituting the words:

"imprisoned for not less than 30 days nor more than two years and fined not more than one thousand dollars ($1,000) in the discretion of the court. The first 30 days of imprisonment for a violation of this offense shall not be subject to suspension or parole."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 7th day of March, 1983.

S. B. 73 CHAPTER 52

AN ACT TO INCORPORATE THE TOWN OF CAJAH MOUNTAIN IN CALDWELL COUNTY.

Whereas, the Community of Cajah Mountain desires to be incorporated as an incorporated town; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Charter for the Town of Cajah Mountain shall be as follows:

"CHAPTER I.

"Incorporation and Corporate Powers.

"Section 1.1. Incorporation. The citizens of the area described in Chapter II of this act shall be and constitute a body politic and corporate under the name of 'Town of Cajah Mountain', and shall have all of the powers, authority, rights, privileges, and immunities conferred upon municipal corporations by the Constitution and general laws of North Carolina.

"Sec. 1.2. Powers. The Town shall have all the powers, duties, rights, privileges and immunities now vested in the Town and now or hereafter granted to municipal corporations by the Constitution, by the general laws of the State of North Carolina, and by this Charter. The Town shall exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, and general welfare of the Town and of its citizens, unless otherwise prohibited in this Charter.

"Sec. 1.3. Annexation and Limits on Annexation. The Town of Cajah Mountain may not annex, pursuant to Article 4A Parts 2 or 3 of General Statutes Chapter 160A, areas contiguous to its primary corporate limits, unless a petition in support of the annexation signed by seventy percent (70%) of the registered voters living in the area proposed for annexation, is filed with the Town Clerk prior to adoption of the annexation ordinance.

"CHAPTER II.

"Corporate Boundaries.

"Sec. 2.1. Until changed in accordance with law, the boundaries of the Town are: Beginning at a point in the center of State Road 1169 at its junction with State Road 1276 a line in a Northwest direction 1175 feet to a point in the South shoulder of State Road 1153 at its junction with State Road 1001. From this point following the South shoulder of State Road 1153 in a Southwest direction 2,489 feet to a point in the shoulder of State Road 1153 at its junction with Bishop Drive. From this point, a line in a Southeast direction 1175 feet to a point in the center of Floral Drive at its dead end. From this point a line in a Southwest direction 4,414 feet to a point in the shoulder of State Road 1146 at its junction with the West leg of State Road 1154. From this point a line in a Southeast direction 6,300 feet of a point in the center of State Road 1134 at its junction with the East leg of State Road 1135. From this point a line in a Southwest direction 5,212 feet to a point in the center of State Road 1001, (the Wayne Beane-W. P. Bolick Corner). From this point, a line in a Northeast

direction 1,800 feet to a point in the center of State Road 1130, (the E. M. White-Donald Jolly corner). From this point, a line in a Northern direction 9,575 feet to a point in the center of State Road 1156 at its junction with State Road 1159. From this point, a line in a Northwest direction 5,600 feet to the beginning.

"CHAPTER III.

"Governing Body.

"Sec. 3.1. Number of members. The governing body shall consist of five members called aldermen.

"Sec. 3.2. Manner of election of aldermen. The qualified voters of the entire Town of Cajah Mountain shall elect the aldermen.

"Sec. 3.3. Term of office of aldermen. Five aldermen are to be elected at the first regular Town election in November of 1983. The three persons who receive the highest number of votes shall serve a four-year term, and the two persons receiving the next highest number of votes shall serve a two-year term. The terms will continue to be staggered, with ensuing aldermen being elected for four-year terms. No aldermen shall serve more than two consecutive terms.

"Sec. 3.4. Mayor. The Town of Cajah Mountain will not elect a mayor, but a chairman will be selected from the Board of Aldermen by the Board of Aldermen, whose duties will be the same as those duties a traditional mayor would perform.

"Sec. 3.5. Recall. Any member of the Board of Aldermen may be removed from office in the following manner:

(1) Any elector of the Town may make and file with the Town Clerk an affidavit containing the name of the alderman whose removal is sought and a statement of the grounds alleged for his removal. The Clerk shall thereupon deliver to the elector making such affidavit copies of petition blanks for demanding such a removal, printed forms of which he shall keep on hand. Such blanks shall be issued by the Clerk with his signature thereto attached and shall be dated and addressed to the Board of Aldermen, indicate the person to whom issued, and state the name of the officer whose removal is sought. A copy of the petition shall be entered in a record book kept for that purpose in the office of the Clerk. A recall petition to be effective must be returned and filed with the Clerk within 30 days after the filing of the affidavit and to be sufficient must bear the signature of at least thirty-three per centum (33%) of the registered voters of the Town as shown by the registration records for the last preceding general municipal election.

(2) If a recall petition shall be certified by the Clerk to be sufficient he shall at once submit it to the Board of Aldermen with his certificate to that effect and shall notify the officer whose removal is sought of such action. If the officer whose removal is sought does not resign within five days after such notice the Board of Aldermen shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than 70 nor more than 100 days after the petition has been certified to the Board of Aldermen, and it may be held at the same time as any other general or special election within such period; but if no other election is to be held within such period the Board of Aldermen shall call a special recall election to be held within the time aforesaid.

(3) The question of recalling any number of officers may be submitted at the same election, but as to each such officer a separate petition shall be filed and there shall be an entirely separate ballot.

(4) The ballots used in a recall election shall submit the following propositions in the order indicated:

☐ For the recall of (name of officer).

☐ Against the recall of (name of officer).

Except that the spaces left for the name and date shall be filled by the correct names and date, the ballots used in a recall election shall be in form substantially as follows:

'RECALL ELECTION

Town of Cajah Mountain

_____(Month and day of month)_____ 19__

☐ For the recall of _____

☐ Against the recall of _____.'

(5) If a majority of the votes cast on the question of recalling an officer be against his recall he shall continue in office for the remainder of the unexpired term, but subject to the recall as before. If a majority of such votes be for the recall of the officer designated on the ballot, he shall, regardless of any defects in the recall petition, be deemed removed from office.

(6) If an officer in regard to whom a sufficient recall petition is submitted to the Board of Aldermen shall resign before the election, or be removed as a result thereof, the vacancy so caused shall be filled in the manner provided by this Charter for filling vacancies in such office, except as provided in subdivision (8) of this section. But an officer removed by the voters as the result of a recall election or resigning after a sufficient petition for his recall has been submitted to the Board of Aldermen, shall not be reelected to fill the vacancy caused by his own removal or resignation.

(7) No recall petition shall be filed against an officer within three months after he takes office, nor, in case of an officer subjected to a recall election and not removed thereby, until at least six months after that election.

(8) If the recall of a majority of the members of the Board of Commissioners shall be effected at a single recall election, the successors of the officers recalled shall be elected by the registered, qualified voters of the Town at a special municipal election, and said successors shall serve for the unexpired part of the terms of the officers recalled. The members of the Board of Aldermen who have not been recalled are empowered to call said special election and to make all necessary provisions regarding the same in conformity to the Constitution and general laws of North Carolina. If the recall of all of the members of the Board of Aldermen shall be effected at a single recall election, they shall be continued in office for the purpose, and only for the purpose, of calling a special municipal election for the election of their successors as above provided, and of ascertaining and declaring the result thereof.

"Sec. 3.6. Pay for aldermen. The aldermen shall receive no pay.

"CHAPTER IV.

"Elections.

"Sec. 4.1. Conduct of Town elections. The Town officers shall be elected on a nonpartisan basis, and the results determined by plurality as provided in G.S. 163-292. Elections shall be conducted by the Caldwell County Board of Elections."

Sec. 2. Interim budget. The Board of Aldermen may adopt a budget ordinance for the 1983-84 fiscal year, following their qualification for office, without having to comply with the budget preparation and adoption timetable

set out in the Local Government Budget and Fiscal Control Act. If the initial budget is adopted after January 1, 1984, then taxes may be paid at par on face amount within 90 days of adoption of the budget, and thereafter according to the schedule in G.S. 105-360 as if the taxes had been due on September 1, 1983.

Sec. 3. Special election for approval. (a) The Board of Elections in Caldwell County is hereby authorized and directed to call and conduct a special election on a date to be set by the Caldwell County Board of Commissioners not earlier than 60 days after ratification of this act but not later than 90 days after ratification of this act for the purpose of submitting to the qualified voters of the area heretofore described as the proposed corporate limits of the Town of Cajah Mountain, the question of whether or not such area shall be incorporated as a municipal corporation known as the Town of Cajah Mountain. In conducting the election required to be held by this act, the Board of Elections of Caldwell County shall follow the procedures contained in G.S. 163-288.2, in this act, and the procedures contained in Chapter 163 of the General Statutes of North Carolina regarding municipal elections, where the same are not in conflict with this act, except that notice of the election shall be given not later than 10 days before the registration books close and the Board of Elections may set a special schedule under G.S. 163-288.2 with deadlines it determines, if there is insufficient time to meet the time requirements of that section.

(b) In the special election, those voters who favor the incorporation of the Town of Cajah Mountain as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of the Town of Cajah Mountain"; and those voters who are opposed to the incorporation of the Town of Cajah Mountain as provided in this act shall vote a ballot upon which shall be printed the words "AGAINST Incorporation of the Town of Cajah Mountain".

If the majority of the votes cast in such special election shall be cast "AGAINST Incorporation of the Town of Cajah Mountain", then the provisions of Sections 1 and 2 of this act shall have no force and effect.

If a majority of the votes cast in the special election shall be cast "FOR Incorporation of the Town of Cajah Mountain", then the provisions of this act shall be in full force and effect from and after the date upon which the Caldwell County Board of Elections determines the result of the election.

Sec. 4. Vacancies. The provisions of G.S. 160A-63 shall not apply to the Town of Cajah Mountain until after the first election for Board of Aldermen.

Sec. 5. Effective date. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1983.

S. B. 54 CHAPTER 53

AN ACT TO AMEND THE AUTHORITY TO SET FEES FOR THE BOARD OF MEDICAL EXAMINERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-6 is amended by inserting a new second sentence between the existing first and second sentences in the second paragraph to read:

"The fee for reactivation of an inactive incomplete application shall be five dollars ($5.00)."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1983.

S. B. 29 CHAPTER 54

AN ACT PERMITTING A COURT TO ORDER CHILD SUPPORT PAYMENTS TO CONTINUE FOR AS LONG AS THE CHILD IS IN HIGH SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.4(c) is amended by adding the following at the end of that subsection:

"Payments ordered for the support of a child shall terminate when the child reaches the age of 18 except:

(1) if the child is otherwise emancipated, payments shall terminate at that time;

(2) if the child is still in primary or secondary school when he reaches age 18, the court in its discretion may order support payments to continue until he graduates, otherwise ceases to attend school on a regular basis, or reaches age 20, whichever comes first."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 10th day of March, 1983.

S. B. 148 CHAPTER 55

AN ACT TO ALLOW A SANITARY DISTRICT TO ENGAGE IN LITIGATION OR JOIN WITH OTHERS IN LITIGATION OPPOSING THE WITHDRAWAL OF WATER FROM A RIVER OR OTHER WATER SUPPLY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130 of the General Statutes is amended by adding a new section to read:

"§ 130-128.1. *Withdrawal of water.*—A sanitary district is empowered to engage in litigation or to join with other parties in litigation opposing the withdrawal of water from a river or other water supply."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1983.

H. B. 78 **CHAPTER 56**

AN ACT TO ALLOW THE MECKLENBURG COUNTY BOARD OF EDUCATION TO FILL BY APPOINTMENT A VACANCY CREATED WHEN A MEMBER IS ELECTED TO ANOTHER PUBLIC OFFICE, LOCAL, STATE OR FEDERAL.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 881, Session Laws of 1967, is amended by adding immediately after the words "change of legal residence from Mecklenburg County," the words "resignation due to election to another office in this State filled by election of the people or office under the United States filled by election of the people,".

Sec. 2. This act is effective upon ratification and applies to vacancies existing on that date.

In the General Assembly read three times and ratified, this the 10th day of March, 1983.

H. B. 244 **CHAPTER 57**

AN ACT TO REDUCE THE SIZE OF THE RICHMOND COUNTY BOARD OF COMMISSIONERS FROM SIX TO FIVE AND PROVIDE THAT THE COMMISSION SHALL ELECT ITS OWN CHAIRMAN.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 536, Session Laws of 1977, is amended by rewriting the first two paragraphs to read:

"The board shall elect a chairman from among its membership to serve a one-year term, as provided by G.S. 153A-39.

One member of the board shall be elected from each district as provided in this act, and the board of commissioners shall consist of five members."

Sec. 2. Section 2 of Chapter 536, Session Laws of 1977, is amended by rewriting the last two paragraphs to read:

"In 1984, one member shall be elected from District #1 for a two-year term. In 1986 and quadrennially thereafter, one member shall be elected from District #1 for a four-year term.

In 1984 and quadrennially thereafter, one member shall be elected from District #3 for a four-year term, and one member shall be elected from District #5 for a four-year term. In 1986 and quadrennially thereafter, one member shall be elected from District #2 for a four-year term, and one member shall be elected from District #4 for a four-year term."

Sec. 2.1. Section 1 of Chapter 536, Session Laws of 1977, is amended by striking the word "six" in the first line thereof and inserting in lieu thereof the word "five".

Sec. 3. Chapter 722, Session Laws of 1979, is repealed.

Sec. 4. Section 2 of this act is effective upon ratification, but shall not affect the current term of office of any member. Section 1 of this act shall become effective December 1, 1986, no separate office of chairman shall be voted on by the voters in 1986, and the board shall first elect its chairman from among its own membership at its first regular meeting in December or 1986, provided, however that if the office of chairman is vacant prior to December 1, 1986, then Section 1 of this act is effective upon the occurrence of such vacancy.

and the board of commissioners shall elect a chairman from among its members to serve until the first regular meeting in December next.

In the General Assembly read three times and ratified, this the 10th day of March, 1983.

H. B. 245 CHAPTER 58

AN ACT TO CHANGE THE STYLE OF THE GOVERNING BOARD OF THE CITY OF LINCOLNTON FROM THE BOARD OF ALDERMEN TO THE CITY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Lincolnton, being Chapter 341, Session Laws of 1979, is amended by deleting the words "Board of Aldermen" or "BOARD OF ALDERMEN" wherever they appear and inserting in lieu thereof "City Council" or "CITY COUNCIL" respectively.

Sec. 2. Sections 2.4, 3.3(c), 4.4, 4.6, and 7.1(d) of the Charter of the City of Lincolnton are amended by deleting "Board" and inserting in lieu thereof "Council".

Sec. 3. Sec. 3.3(c) of the Charter of the City of Lincolnton is amended by deleting "Alderman" and inserting in lieu thereof "Councilman".

Sec. 4. This act shall become effective 10 days after ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1983.

H. B. 254 CHAPTER 59

AN ACT TO CHANGE THE EFFECTIVE DATE OF AN ANNEXATION OF THE TOWN OF MOREHEAD CITY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of "AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF MOREHEAD CITY, UNDER THE AUTHORITY GRANTED BY PART 2, ARTICLE 4A, CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA", as adopted by the Morehead City Board of Commissioners on August 26, 1982, as contained in Morehead City Minute Book 25, as recorded in the office of the Register of Deeds of Carteret County in Book 471, page 7, on October 6, 1982, and as recorded in the office of the Secretary of State on October 18, 1982, is amended by deleting the words "1st day of September, 1982" both places they appear and inserting in lieu thereof in both places the words "2nd day of September, 1982".

Sec. 2. This act is effective with respect to all purposes of Article 4A of Chapter 160A of the General Statutes.

Sec. 3. This act shall become effective from and after August 26, 1982.

In the General Assembly read three times and ratified, this the 10th day of March, 1983.

H. B. 283 **CHAPTER 60**

AN ACT TO AUTHORIZE THE CITY OF ALBEMARLE TO CONVEY AT PRIVATE SALE A TRACT OF LAND TO COLLINS AND AIKMAN CORPORATION ON A BASIS OTHER THAN THE HIGHEST MONETARY BID, BECAUSE SUCH DISPOSITION IS FOUND TO SERVE THE BEST INTEREST OF THE MUNICIPALITY.

Whereas, the tracts of the land hereinafter described were acquired by the City of Albemarle in 1955 and 1962. The tracts adjoin the site of an industrial facility operated by Collins and Aikman Corporation and until 1980 were used by the City of Albemarle as a settling basin in pretreating waste from the industrial facility prior to discharge into the city wastewater collection system; and

Whereas, in compliance with the requirements of the Federal Water Pollution Control Act Amendments of 1972 P.L. 92-500, the City of Albemarle adopted a sewer use ordinance in 1980 requiring industrial users to pretreat waste prior to discharge into the city's wastewater collection system. Thereafter the city ceased using the land; and

Whereas, the tracts of land were acquired solely for the purpose of serving the adjoining industrial facility. The cost thereof was capitalized and the City of Albemarle has recovered its cost many times over through a sewer use charge levied against the industry for the pretreatment of industrial waste on said site. The land is surplus property of no useful purpose to the City of Albemarle and it is in the best interest of the city to divest itself of ownership of the site; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The governing authorities of the City of Albemarle, North Carolina are hereby authorized and empowered to convey to Collins & Aikman Corporation the lands hereinafter described without further consideration, at private sale without advertisement and bids, since such property is special purpose property and is deemed to be surplus property:

TRACT NO. 1: BEGINNING at an iron pipe in the west right-of-way line of the Carolina and Northwestern Railway Company (formerly Yadkin Railway Company), the same also being the southeast corner of Collins and Aikman Corporation's plant site property in said west right-of-way line, and running with Collins & Aikman Corporation's line N. 86-30 W. 98.3 feet to an iron stake, Collins & Aikman's corner; thence with another line of Collins & Aikman's S. 6-42-30 West 401.4 feet to an iron pipe in Collins & Aikman's line; thence a new line S. 86-30 E. 316.8 feet to an iron pipe in the west right-of-way line of the Carolina and Northwestern Railway Company; thence with the west right-of-way line of the Carolina and Northwestern Railway Company as follows: N. 28-13 W. 50 feet; N. 27-20 W. 100 feet; N 24-48 W. 100 feet; N. 21-6 W. 100 feet; N. 17-27 W. 100 feet to an iron pipe, the point of beginning and containing approximately two acres.

For reference see Deed Book 183, page 181, Stanly County Registry.

TRACT NO. 2: That portion of the 25 acre tract of Daniel Calvin Griggs and wife, Thelma Forrest Griggs, on the west side of the Carolina and Northwestern Railroad.

BEGINNING at an iron stake in Collins and Aikman's east line, the southwest corner of the City of Albemarle, North Carolina, and running thence

with Collins and Aikman's line South 6-42-30 W. 350.0 feet to an iron stake in said line; thence a new line South 86-30 E. 554.27 feet to a point on the west right-of-way line of the Carolina and Northwestern Railroad; thence with the said west right-of-way line N. 28-27 W. 411.85 feet to a point on the said west right-of-way line; thence with the south line of the City of Albemarle, North Carolina, North 86-30 W. 316.77 feet to the beginning, and containing 3.494 acres.

Sec. 2. The Mayor and City Clerk of the City of Albemarle are hereby authorized and empowered to execute and deliver to Collins and Aikman Corporation a good and sufficient deed for the lands described in Section 1 above.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1983.

H. B. 86 CHAPTER 61

AN ACT TO ALLOW CORPORATIONS TO DEDUCT THE AMOUNT BY WHICH THE BASIS OF CERTAIN PROPERTY IS REDUCED BY A FEDERAL TAX CREDIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(14) The amount by which the basis of a depreciable asset is required to be reduced for federal tax purposes because of a tax credit allowed against the corporation's federal income tax liability. This deduction may be claimed only in the year in which federal law requires that the asset's basis be reduced. In computing gain or loss on the asset's disposition, this deduction shall be considered as depreciation."

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1983.

In the General Assembly read three times and ratified, this the 11th day of March, 1983.

H. B. 101 CHAPTER 62

AN ACT TO RAISE AGE LIMITS FOR DAY-CARE STAFF.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-91(8) is amended by deleting the second sentence and substituting the following:

"All staff counted in determining the required staff-child ratio shall be at least 18 years of age or a high school graduate. Persons less than 18 years of age, but at least 16 years of age, may work in day-care facilities provided they are under the direct supervision of a required staff member."

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 11th day of March, 1983.

H. B. 165

CHAPTER 63

AN ACT TO DEFINE THE TERM OF THE LEGISLATIVE RESEARCH COMMISSION AND TO ALLOW THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE TO ACT CONCERNING THE STATE'S INTEREST IN RAILROAD PROPERTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-30.11 is rewritten to read:

"§ 120-30.11. *Time of appointments; terms of office.*—Appointments to the Legislative Research Commission shall be made not earlier than the close of each regular session of the General Assembly held in the odd-numbered year nor later than 15 days subsequent to the close. The term of office shall begin on the day of appointment, and shall end on the fourth Friday in November of the next even-numbered year. Except for the work of the Administrative Rules Review Committee, no monies appropriated to the Legislative Research Commission may be expended for meetings of the Commission, its committees or subcommittees held after the fourth Friday in November of the next even-numbered year and before the appointment of the next Legislative Research Commission."

Sec. 2. Notwithstanding any other provision of law, the terms of office of the members of the Legislative Research Commission in office on December 31, 1982, are extended to expire upon the appointment of their successors. The Legislative Research Commission may meet and expend funds during the regular session of the General Assembly for the purposes of taking actions authorized by Chapter 1372, Session Laws of 1981 (Regular Session, 1982).

Sec. 3. This act is effective upon ratification. Section 2 of this act shall expire July 1, 1983.

In the General Assembly read three times and ratified, this the 11th day of March, 1983.

H. B. 249

CHAPTER 64

AN ACT TO PROVIDE THAT THE GOVERNING BODY OF A TAXING UNIT MAY DELAY THE ACCRUAL OF INTEREST ON CERTAIN UNPAID PROPERTY TAXES.

The General Assembly of North Carolina enacts:

Section 1. A taxing unit's governing body may by resolution provide that, notwithstanding the provisions of G.S. 105-360 regarding the accrual of interest, interest shall not accrue on unpaid tax receipts for 1982 taxes unless the tax receipts remain unpaid after April 1, 1983. Interest accruing on taxes that remain upaid after April 1, 1983, shall be computed according to the schedule stated in G.S. 105-360 in the same manner as though the taxes were unpaid as of January 6, 1983. A resolution adopted pursuant to this act may apply only to 1982 taxes, receipts of which were not delivered to the tax collector before October 15, 1982.

Sec. 2. A resolution adopted by a board of county commissioners pursuant to this act relieves the tax collector of that county of any obligation to collect interest on taxes to which the resolution applies that are paid on or before April 1, 1983.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1983.

H. B. 297 CHAPTER 65

AN ACT TO RAISE THE SIZE OF ESTATES THAT MAY BE ADMINISTERED UNDER THE SMALL ESTATES PROVISIONS OF ARTICLE 25 OF CHAPTER 28A AND UNDER G.S. 7A-111 AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-25-1(a) is hereby amended by deleting the words and figures "five thousand dollars ($5,000)" and inserting in lieu thereof the words and figures "ten thousand dollars ($10,000)" in both places where the same appears.

Sec. 2. G.S. 28A-25-6 is hereby amended in subsections (a), (b), and (c) by deleting the words and figures "two thousand dollars ($2,000)" and inserting in lieu thereof the words and figures "five thousand dollars ($5,000)" wherever the same appears.

Sec. 3. G.S. 7A-111 is hereby amended in subsections (a) and (b) by deleting the words and figures "two thousand dollars ($2,000)" and inserting in lieu thereof the words and figures "five thousand dollars ($5,000)".

Sec. 4. Sections 1 and 2 of this act shall apply to the administration of the estates of persons dying on or after October 1, 1983.

Sec. 5. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 11th day of March, 1983.

H. B. 302 CHAPTER 66

AN ACT TO ELIMINATE THE REQUIREMENT FOR A SEPARATE RECORD OF RENUNCIATION AND TO CLARIFY LANGUAGE REGARDING PARTIAL RENUNCIATIONS AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 31B-1(a) is hereby amended by inserting after the first sentence thereof a new sentence to read as follows: "A renunciation may be of a fractional share or any limited interest or estate."

Sec. 2. G.S. 31B-2(c) is hereby amended by deleting the second and third sentences thereof.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1983.

H. B. 136 CHAPTER 67

AN ACT TO CLARIFY FEES CHARGED BY THE PRIVATE PROTECTIVE SERVICES BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74C-9(e) is amended by inserting the following between "license" and "in" in subdivision (4): "or duplicate license"; and further amended by deleting the period in subdivision (5) and inserting in lieu thereof a semicolon and by adding new subdivisions to read:

"(6) A new, renewal, replacement or reissuance fee for a registration identification card in an amount not to exceed thirty dollars ($30.00);

(7) An application fee for an armed private security officer firearm registration permit not to exceed fifty dollars ($50.00);

(8) A new, renewal, replacement, or reissuance fee for an armed private security officer firearm registration permit not to exceed thirty dollars ($30.00);

(9) An application fee for certification as a firearms trainer not to exceed fifty dollars ($50.00);

(10) A renewal or replacement fee for firearms trainer certification not to exceed twenty-five dollars ($25.00);

(11) A new nonresident temporary permit fee not to exceed one hundred dollars ($100.00)."

Sec. 2. G.S. 74C-11(d) is amended by deleting the last sentence of the paragraph.

Sec. 3. G.S. 74C-13 is amended by deleting the last sentences of subsections (c), (d) and (k).

Sec. 4. G.S. 74C-18(b) is amended by deleting the last sentence of the paragraph.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1983.

S. B. 57 CHAPTER 68

AN ACT TO REPEAL THE SUNSET PROVISION IN THE 1981 ACT CHANGING THE RATE OF INTEREST IN THE CONSUMER FINANCE ACT.

The General Assembly of North Carolina enacts:

Section 1. Section 9 of Chapter 561 of the 1981 Session Laws is amended to read:

"Sec. 9. This act shall become effective 30 days after ratification and shall apply only to loans made after the effective date of this act."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1983.

H. B. 212 **CHAPTER 69**

AN ACT TO ESTABLISH A SEVEN-MEMBER BOARD OF MORTUARY SCIENCE, TO SET THREE-YEAR TERMS, AND TO LIMIT SERVICE TO TWO CONSECUTIVE TERMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-210.18(b) is rewritten to read:

"(b) The North Carolina Board of Mortuary Science is created as a continuation of the North Carolina Board of Embalmers and Funeral Directors. The Board is the agency for regulation of the practice of funeral service in this State. The Board shall have seven members as follows:

(1) four funeral service licensees or persons holding both a funeral director's license and an embalmer's license,

(2) two persons holding a funeral director's license or a funeral service license, and

(3) one public member.

A member's terms shall be three years and shall expire on December 31 or when his successor has been duly elected or appointed. No member may serve more than two complete consecutive terms.

The six seats on the Board for licensees shall be filled in an election in which every person licensed to practice embalming, funeral directing, or funeral service in this State may vote. No licensee may be nominated, elected, or serve unless he holds a North Carolina license in the class designated for the seat and unless he is engaged in full-time employment in this State in a practice authorized by his license. Any vacancy occurring in an elective seat on the Board shall be filled for the unexpired term by majority vote of the remaining Board members.

The public member of the Board shall have full voting authority. He shall be appointed by the Governor and may neither be licensed under this Article nor employed by a person who is. A vacancy occurring in the public member's seat shall be filled for the unexpired term by the Governor."

Sec. 2. G.S. 90-210.18(c)(1) is rewritten to read:

"(1) An election shall be held each year to elect two persons for membership on the Board of Mortuary Science, each to take office on the first day of January following the election. If in any year the election of a member of the Board is not completed by January 1, the member elected that year shall take office immediately after completion of the election."

Sec. 3. G.S. 90-210.18(c)(5a) is repealed.

Sec. 4. G.S. 90-210.18(c)(6) is amended by deleting from the first sentence the phrase "containing, in alphabetical order, the names of all nominees; and each" and substituting the following: "containing identification of the seats for election and, in alphabetical order, the names of all nominees for each seat. Each".

Sec. 5. G.S. 90-210.25(e)(1) is amended by adding a new paragraph at the end to read:

"In any case in which the Board is entitled to suspend, revoke or refuse to renew a license, the Board may accept from the licensee an offer in compromise to pay a penalty of not more than one thousand dollars ($1,000). The Board may either accept a compromise or revoke or refuse to renew a license, but not both."

Sec. 6. Notwithstanding Section 1 of this act:

(a) The term of the funeral director or funeral service licensee to be elected in 1983 shall be two years. Thereafter the term shall be three years.

(b) The term of the public member to be appointed in 1985 shall expire on December 31, 1988. Thereafter the term shall be three years.

(c) Members currently serving on the Board may complete their terms and shall be eligible for election to one additional consecutive term. When the term of the funeral service licensee member expires on December 31, 1984, that seat shall be eliminated.

Notwithstanding Section 2 of this act, only one member shall be elected to the Board in 1984.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1983.

H. B. 192 CHAPTER 70

AN ACT TO CLARIFY THE AGGRAVATING FACTOR REGARDING PECUNIARY GAIN UNDER THE FAIR SENTENCING ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1340.4(a)(1)c. is rewritten to read as follows:

"c. The defendant was hired or paid to commit the offense."

Sec. 2. This act shall become effective on October 1, 1983.

In the General Assembly read three times and ratified, this the 15th day of March, 1983.

H. B. 309 CHAPTER 71

AN ACT TO INCREASE THE PENALTIES FOR VIOLATING ORDINANCES OF THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-4 is amended by deleting the words and figures "fined not more than fifty dollars ($50.00)" and by inserting in lieu thereof the words and figures "fined not more than five hundred dollars ($500.00)".

Sec. 2. This act shall apply to the City of Charlotte only.

Sec. 3. This act shall apply to the City of Charlotte only and shall be applicable only to those ordinances which expressly provide that the maximum fine to be imposed for violation is some amount of money greater than fifty dollars ($50.00).

Sec. 4. This act shall become effective 60 days after ratification and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified, this the 15th day of March, 1983.

H. B. 211 CHAPTER 72

AN ACT TO AMEND THE NURSING HOME ADMINISTRATOR ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-286 is rewritten to read:

"§ 90-286. *Renewal of license.*—Every holder of a nursing home administrator's license shall renew it biennially by application to the Board. The Board shall grant renewals when the applicant has paid the fee required by this Article and has satisfactorily completed continuing education courses as may be prescribed by the Board, unless the Board finds that the applicant has acted or failed to act in such a manner as would constitute grounds for suspension, revocation or denial of a license as provided by this Article. The Board shall adopt rules defining the content of continuing education courses approved or required by it under this section and shall make a copy of these rules available to each licensee. The Board shall not require any licensee to successfully complete more than 30 hours of continuing education courses every two years. The Board shall certify and administer continuing education courses for nursing home administrators and shall keep a record of the courses successfully completed by each licensee."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 16th day of March, 1983.

H. B. 31 CHAPTER 73

AN ACT TO REPEAL SECTION 2 OF CHAPTER 1399 OF THE 1981 SESSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 1399 of the 1981 Session Laws is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1983.

H. B. 264 CHAPTER 74

AN ACT TO REQUIRE FORFEITURE OF CONVEYANCES USED IN THE COMMISSION OF A ROBBERY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-86.1(a) is amended by inserting immediately after the citation "20-106" the following:

", or used by any person in the commission of armed or common-law robbery,".

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 17th day of March, 1983.

H. B. 217 **CHAPTER 75**

AN ACT TO ALLOW THE TOWN OF WINDSOR TO COLLECT ON MOTOR VEHICLES A TAX OF NOT MORE THAN TWO DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a) and G.S. 20-97(a1) are deleted and the following inserted in lieu thereof:

"(a) All taxes levied under the provisions of this Article are intended as compensatory taxes for the use and privileges of public highways of this State, and shall be paid by the Commissioner to the State Treasurer, to be credited by him to the State Highway Fund; and no county or municipality shall levy any license or privilege tax upon the use of any motor vehicle licensed in the State of North Carolina except as provided in this section.

(a1) Notwithstanding the prohibition of subsection (a) of this section, the following cities and towns may levy a tax of not more than five dollars ($5.00) per year on any vehicle resident therein:

(1) All incorporated cities and towns in Buncombe, Cumberland, Dare, Davidson, Granville, Johnston, Lenoir, Madison, McDowell, New Hanover, Pender, and Yancey counties.

(2) The Town of Battleboro, the City of Brevard, the Town of Bridgeton, the Town of Cape Carteret, the Town of Chadbourn, the City of Charlotte, the Town of Fairmont, the Town of Farmville, the Town of Fountain, the City of Greenville, the City of Hendersonville, the Town of Jamestown, the Town of Kenansville, the Town of Magnolia, the Town of Mount Olive, the Town of Parkton, the Town of Plymouth, the Town of Raeford, the City of Raleigh, the Town of Rose Hill, the Town of Stoneville, the Town of Wallace, the Town of Williamston, and the City of Winston-Salem.

(a2) Notwithstanding the prohibition of subsection (a) of this section, the following cities and towns may levy a tax of not more than three dollars ($3.00) per year on any vehicle resident therein:

The Town of Bethel, the City of Concord in Cabarrus County, the Town of Elizabethtown, the Town of Enfield, the Town of Garner, the City of Henderson, the Town of Jackson, the Town of Mebane, the City of Roanoke Rapids, the Town of Weldon, the Town of Wendell, and the Town of Zebulon.

(a3) Notwithstanding the prohibition of subsection (a) of this section, the following cities and towns may levy a tax of not more than two dollars ($2.00) per year on any vehicle resident therein:

The Town of Franklinton and the Town of Windsor.

(a4) Notwithstanding the prohibition of subsection (a) of this section, the following cities and towns may levy a tax of not more than one dollar ($1.00) per year on any vehicle resident therein:

All cities and towns not included in subsections (a1), (a2), or (a3) of this section.

(a5) Notwithstanding the prohibition of subsection (a) of this section, cities and towns may levy in addition to the amounts hereinabove provided for, not more than fifteen dollars ($15.00) per year on each vehicle operated in the city or town as a taxicab."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1983.

S. B. 47 CHAPTER 76

AN ACT TO CLARIFY THE AUTHORITY OF DEPARTMENTAL HEADS TO ADOPT RULES AND POLICIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-10(j) is rewritten to read:

"(j) Departmental Rules and Policies. The head of each principal State department and the Director of the Office of State Personnel may adopt:

(1) rules consistent with law for the custody, use, and preservation of any public records, as defined in G.S. 132-1, which pertain to department business;

(2) rules, approved by the Governor, to govern the management of the department, which shall include the functions of planning, organizing, staffing, directing, coordinating, reporting, budgeting, and budget preparation which affect private rights or procedures available to the public;

(3) policies, consistent with law and with rules established by the Governor and with rules of the State Personnel Commission, which reflect internal management procedures within the department. These may include policies governing the conduct of employees of the department, the distribution and performance of business, and internal management procedures which do not affect private rights or procedures available to the public and which are listed in (e) of this section. However, such policies shall not be filed as rules pursuant to G.S. 150A-59.

Rules adopted under (1) and (2) of this subsection shall be subject to the provisions of Chapter 150A of the General Statutes.

This subsection shall not be construed as a legislative grant of authority to an agency to make and promulgate rules concerning any policies and procedures other than as set forth herein."

Sec. 2. G.S. 143B-10(f) is amended by rewriting the last two lines to read: "legal custody of all public records as defined in G.S. 132-1."

Sec. 3. Section 1 of this act shall become effective upon ratification with regard to any rules or policies made effective on or after that date and shall apply on October 1, 1984, to rules and policies made effective prior to ratification. Sections 2 and 3 of this act are effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1983.

H. B. 119 **CHAPTER 77**

AN ACT TO AMEND G.S. 20-16.1 RELATING TO MANDATORY SUSPENSION OF DRIVER'S LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-16.1(b)(1), as the same is found in Volume 1C of the General Statutes, 1981 Cumulative Supplement, is hereby amended by:

(a) Striking the figure "10" appearing in line 6 thereof and inserting in lieu thereof the figure "7";

(b) Striking the words "such length of time as shall be set forth in the judgment of the trial judge" appearing in lines 19 and 20 thereof and inserting in lieu thereof the words "30 days from the date of issuance by trial court."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of March, 1983.

S. B. 95 **CHAPTER 78**

AN ACT TO ALLOW THE MONTGOMERY COUNTY BOARD OF EDUCATION TO CONVEY CERTAIN LANDS AT PRIVATE SALE TO THE CANDOR LIONS CLUB.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 115C-518, the Montgomery County Board of Education may convey at private sale, with or without monetary consideration, to the Candor Lions Club (a nonprofit organization) any or all of its interest to the following described parcel or tract of land:

"A parcel or tract of land lying and being in the Town of Candor, Biscoe Township, Montgomery County, North Carolina, on the north side of The Candor School and about 350 feet west of South School Street, more particularly described as follows:

BEGINNING at a 5/8 inch galvanized pipe found at the southwest corner of Philip Parson's property, being N. 86 01' 28" W. 347.17 feet from Parson's southeast corner, thence a new line N. 86 01' 15" W. 213.41 feet to a new set 2 inch aluminum pipe with 3 inch cap, thence N. 3 11' 00" E. 189.55 feet to a new set 3/4 inch rod, thence with the old line S. 84 48' 12" E. 219.99 feet to a 5/8 inch galvanized pipe found, thence S. 16 15' 44" W. 35.85 feet to a 5/8 inch galvanized pipe found, thence S. 2 35' 13" W. 79.63 feet to a 5/8 inch galvanized pipe found, the northwest corner of said Parson lot, thence with said lot S. 2 31' 01" W. 70.24 feet to the BEGINNING, containing 0.92 acres, more or less, as shown on a plat by James L. Wright, RLS 1418, dated December 28, 1982, and made a part of this description."

For reference see deed from Robert L. Liles, Jr., and wife, Margaret L. Liles, to Montgomery County Board of Education dated November 30, 1982, and recorded in Deed Book 206 at Page 246.

Sec. 2. Notwithstanding G.S. 115C-518, the Montgomery County Board of Education may convey at private sale, with or without monetary consideration, to the Candor Lions Club (a nonprofit organization) its successors in title and assigns, a perpetual right-of-way and easement for the Candor Lions Club, its successors in title and assigns, and its members, servants, employees, licensees, and invitees, and all persons lawfully entitled to such ingress and

egress, to use the roadway hereinafter described and defined at all times hereafter for all purposes connected with the use and enjoyment of the lands described in Section 1 of this act, including but not limited to the right to pass and repass over, along and upon said roadway, by and with any and all means of transportation, or on foot, for the purpose of going from South School Street to the lands described in Section 1 of this act, the right-of-way and easement being more particularly described as follows:

"Also there is a 30.0 foot easement BEGINNING at a new set 2 inch aluminum pipe with 3 inch cap flush with the ground located 90.0 feet north of Randolph Street and on the west R/W of South School Street, thence N. 86 01' 23" W. 560.57 feet to a new set 3/4 inch iron pipe, thence N. 3 11'00" E. 30.0 feet to a 2 inch aluminum pipe and 3 inch cap, thence S. 86 01' 15" E. 213.41 feet to a 5/8 inch galvanized pipe, thence with the Parson's lot S. 86 01' 28" E. 347.17 feet to a point on said west R/W, thence with the R/W S. 3 11' 00" W. 30.0 feet to the BEGINNING, containing 0.38 acres, more or less, and being a 30.0 foot easement."

For reference see deed from Robert L. Liles, Jr., and wife, Margaret L. Liles, to Montgomery County Board of Education dated November 30, 1982, and recorded in Deed Book 206 at Page 246.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1983.

S. B. 137 CHAPTER 79

AN ACT TO AUTHORIZE THE CITY OF HICKORY TO CONVEY A PARCEL OF LAND AT PRIVATE SALE TO THE HICKORY MUSEUM OF ART, INC., AND TO VALIDATE A CONVEYANCE BY THE BOARD OF EDUCATION OF THE HICKORY ADMINISTRATIVE SCHOOL UNIT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the City of Hickory is authorized to convey at private sale, with or without monetary consideration, to the Hickory Museum of Art, Inc., its right, title, and interest to the following described parcel of land:

Adjoining the lands of the City of Hickory and others, and more particularly described as follows:

BEGINNING at a stake in the Northern property line of 3rd Avenue, N.W. (formerly 13th Avenue) at the point of its intersection with the Western margin of 5th Street, N.W. (formerly 16th Street) which stake is also located 30 feet Westward from the Southwest corner of the former P. A. Setzer homeplace property and runs from said beginning point with the Northern property line of 3rd Avenue, N.W. North 87° 09' West 100 feet, more or less, to a stake, formerly A. Hutton's Southeast corner and now the Southeast corner of the property of the City of Hickory; thence with the line of the said property of the City of Hickory North 2° 33' East 145 feet, more or less, to a stake, another corner of the property of the City of Hickory; thence with another line of said property of the City of Hickory North 87° 07' West 90.17 feet, more or less, to a stake, another corner of the property of the City of Hickory; thence with another line of the

property of the City of Hickory, North 2° 29' East 150 feet, more or less, to a stake located at another corner of the property of the City of Hickory and also located at the former Northwest corner of Horace C. Lutz and later the Northwest corner of the lot of Horace C. Lutz, Jr. and wife, Maxine L. Lutz; thence South 86° 36' East with another line of the property of the City of Hickory, 29.06 feet to a stake, formerly the Southwest corner of Miss Mabel Hight and now another corner of the property of the City of Hickory; thence continuing with a line of the property of the City of Hickory, South 86° 36' East 159.88 feet, more or less, to a stake in the Western margin of 5th Street, N.W., formerly the Southeast corner of the lot of Miss Mabel Hight and now a corner of the property of the City of Hickory; thence with the Western margin of 5th Street, N.W., Southward 300 feet, more or less, to the point of beginning.

For further description of and chain of title to the above described property, reference is made to the following deeds and the records thereof in the office of the Register of Deeds for Catawba County, North Carolina: Deed from R. A. Lapsley, Jr., guardian for Mrs. T. J. Greene, to Horace C. Lutz, dated September 15, 1921 and recorded in said registry in Book 152, page 543; deed from G. Norman Hutton and wife, Opal Hutton, to H. C. Lutz dated September 12, 1935 and recorded in said registry in Book 265, page 163; and deed from H. C. Lutz, Sr. and wife, Ella Jackson Lutz, to Horace C. Lutz, Jr. and wife, Maxine L. Lutz, dated July 12, 1957 and recorded in said registry in Book 556, page 242.

Sec. 2. The resolution of the Board of Education of the Hickory Administrative School Unit, adopted November 22, 1982, which releases and conveys to the Corinth United Church of Christ certain property no longer needed for school purposes in exchange for a lease from Corinth United Church of Christ to Hickory Arts Center, Inc., and from Hickory Arts Center, Inc., to the Board of Education of the Hickory Administrative School Unit, is validated.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1983.

S. B. 138 CHAPTER 80

AN ACT TO ALLOW THE SHERIFF AND DEPUTY SHERIFFS OF CARTERET COUNTY TO PURCHASE AUTOMOBILES FROM STATE SURPLUS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 505, Session Laws of 1981 is amended by deleting "Cherokee County" and inserting in lieu thereof "Carteret and Cherokee Counties".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1983.

H. B. 248 **CHAPTER 81**

AN ACT TO AMEND THE REGULATORY AUTHORITY OF THE REAL ESTATE LICENSING BOARD AND TO CHANGE THE NAME OF THE BOARD TO THE REAL ESTATE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93A-1, 93A-3(a), 93A-3(c), 93A-16(a), 93A-32, 93A-34(b), 93A-35(b), 114-4.2C and all other statutes in which the words "Real Estate Licensing Board" appear are amended by deleting the words "Real Estate Licensing Board" each time they appear and substituting "Real Estate Commission".

Sec. 2. G.S. 93A-1, 93A-3(a), 93A-3(b), 93A-3(c), 93A-3(d), 93A-3(e), 93A-3(f), 93A-4(a), 93A-4(b), 93A-4(c), 93A-4(d), 93A-4(e), 93A-5(a), 93A-5(b), 93A-5(c), 93A-7, 93A-9, 93A-16(b), 93A-16(c), 93A-17(a), 93A-19(a), 93A-20, 93A-21(b), 93A-22, 93A-23, 93A-26, 93A-32, 93A-33, 93A-34(a), 93A-34(b), 93A-34(c), 93A-35(b), 93A-35(c), 93A-36(a), 93A-36(b), 93A-38 and all other statutes in which the word "Board" is used in reference to the North Carolina Real Estate Licensing Board are amended by deleting the word "Board" each time it appears and substituting "Commission".

Sec. 3. G.S. 93A-10 is amended by deleting the word "commission" each time it appears and substituting "Commission".

Sec. 4. G.S. 93A-2(a) is amended by deleting the last sentence of that subsection.

Sec. 5. G.S. 93A-2(c) is rewritten to read:

"(c) The provisions of this Chapter shall not apply to and shall not include:

(1) Any person, partnership, association or corporation who, as owner or lessor, shall perform any of the acts aforesaid with reference to property owned or leased by them, where the acts are performed in the regular course of or as incident to the management of that property and the investment therein;

(2) Any person acting as an attorney-in-fact under a duly executed power of attorney from the owner authorizing the final consummation of performance of any contract for the sale, lease or exchange of real estate;

(3) The acts or services of an attorney at law;

(4) Any person, while acting as a receiver, trustee in bankruptcy, guardian, administrator or executor or any person acting under order of any court;

(5) Any person, while acting as a trustee under a trust agreement, deed of trust or will, or his regular salaried employees;

(6) Any salaried person employed by a licensed real estate broker, for and on behalf of the owner of any real estate or the improvements thereon, which the licensed broker has contracted to manage for the owner, if the salaried employee is limited in his employment to: exhibiting residential units on the real estate to prospective tenants; providing the prospective tenants with information about the lease of the residential units; accepting applications for lease of the residential units; completing and executing preprinted form leases; and accepting security deposits and rental payments for the residential units only when the deposits and rental payments are made payable to the owner or the broker employed by the owner. The salaried employee shall not negotiate the amount of security deposits or rental payments and shall

not negotiate leases or any rental agreements on behalf of the owner or broker; or

(7) Any owner who personally leases or sells his own property."

Sec. 6. The first sentence of G.S. 93A-3(b) is rewritten to read:

"(b) Members of the Commission shall receive as compensation for each day spent on work for the Commission the per diem, subsistence and travel allowances as provided in G.S. 93B-5."

Sec. 7. The first sentence of G.S. 93A-3(c) is rewritten to read:

"(c) The Commission shall have power to make reasonable bylaws, rules and regulations that are not inconsistent with the provisions of this Chapter and the General Statutes; provided, however, the Commission shall not make rules or regulations regulating commissions, salaries, or fees to be charged by licensees under this Chapter."

Sec. 8. The first sentence of G.S. 93A-3(d) is rewritten to read:

"(d) The Commission may employ an Executive Director and professional and clerical staff as may be necessary to carry out the provisions of this Chapter and to put into effect the rules and regulations that the Commission may promulgate."

Sec. 9. G.S. 93A-4(c), 93A-5(a), 93A-5(b) and 93A-5(c) are amended by deleting the words "secretary-treasurer" each time they appear in these subsections and substituting "Executive Director".

Sec. 10. G.S. 93A-10 is amended by deleting the word "secretary" each time it appears in this section and substituting "Executive Director".

Sec. 11. The last sentence of G.S. 93A-4(a) is amended by deleting the words: "and shall state the name and address of the real estate broker with whom the applicant is to be associated".

Sec. 12. The first sentence of G.S. 93A-5(a) is amended by deleting the words "place of business,".

Sec. 13. G.S. 93A-6 is rewritten to read:

"§ 93A-6. *Disciplinary action by Commission.*—(a) The Commission shall have power to take disciplinary action. Upon its own motion, or on the verified complaint of any person, the Commission may investigate the actions of any person or entity licensed under this Chapter, or any other person or entity who shall assume to act in such capacity. If the Commission finds probable cause that a licensee has violated any of the provisions of this Chapter, the Commission may hold a hearing on the allegations of misconduct.

All such hearings shall be conducted in accordance with the provisions of Chapter 150A of the General Statutes. The Commission shall have power to suspend or revoke at any time a license issued under the provisions of this Chapter, or to reprimand or censure any licensee, if, following a hearing, the Commission adjudges the licensee to be guilty of:

(1) Making any willful or negligent misrepresentation or any willful or negligent omission of material fact;

(2) Making any false promises of a character likely to influence, persuade, or induce;

(3) Pursuing a course of misrepresentation or making of false promises through agents, salesmen, advertising or otherwise;

(4) Acting for more than one party in a transaction without the knowledge of all parties for whom he acts;

(5) Accepting a commission or valuable consideration as a real estate salesman for the performance of any of the acts specified in this Chapter, from any person except the licensed broker by whom he is employed;

(6) Representing or attempting to represent a real estate broker other than the broker by whom he is engaged or associated, without the express knowledge and consent of the broker with whom he is associated;

(7) Failing, within a reasonable time, to account for or to remit any moneys coming into his possession which belong to others;

(8) Being unworthy or incompetent to act as a real estate broker or salesman in a manner as to endanger the interest of the public;

(9) Paying a commission or valuable consideration to any person for acts or services performed in violation of this Chapter;

(10) Any other conduct which constitutes improper, fraudulent or dishonest dealing;

(11) Performing or undertaking to perform any legal service, as set forth in G.S. 84-2.1, or any other acts not specifically set forth in that section;

(12) Commingling the money or other property of his principals with his own or failure to maintain and deposit in a trust or escrow account in an insured bank or savings and loan association in North Carolina all money received by him as a real estate broker acting in that capacity, or an escrow agent, or the temporary custodian of the funds of others, in a real estate transaction; provided, these accounts shall not bear interest unless the principals authorize in writing the deposit be made in an interest bearing account and also provide for the disbursement of the interest accrued;

(13) Failing to deliver, within a reasonable time, a completed copy of any purchase agreement or offer to buy and sell real estate to the buyer and to the seller;

(14) Failing as a broker, at the time the transaction is consummated, to deliver to the seller in every real estate transaction, a complete detailed closing statement showing all of the receipts and disbursements handled by him for the seller or failing to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed; or

(15) Violating any rule or regulation promulgated by the Commission.

The Executive Director shall transmit a certified copy of all final orders of the Commission suspending or revoking licenses issued under this Chapter to the clerk of superior court of the county in which the licensee maintains his principal place of business. The clerk shall enter these orders upon the judgment docket of the county.

(b) Following a hearing, the Commission shall also have power to suspend or revoke any license issued under the provisions of this Chapter or to reprimand or censure any licensee when:

(1) The licensee has obtained a license by false or fraudulent representation;

(2) The licensee has been convicted or has entered a plea of guilty or no contest upon which final judgment is entered by a court of competent jurisdiction in this State, or any other state, of the criminal offenses of: embezzlement, obtaining money under false pretense, fraud, forgery,

conspiracy to defraud, or any other offense involving moral turpitude which would reasonably affect the licensee's performance in the real estate business;

(3) The licensee has violated any of the provisions of G.S. 93A-6(a) when selling, leasing, or buying his own property; or

(4) The broker's unlicensed employee, who is exempt from the provisions of this Chapter under G.S. 93A-2(c)(6), has committed, in the regular course of business, any act which, if committed by the broker, would constitute a violation of G.S. 93A-6(a) for which the broker could be disciplined.

(c) The Commission may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this Chapter or rules promulgated by the Commission. The superior court shall have the power to grant these injunctions even if criminal prosecution has been or may be instituted as a result of the violations, or whether the person is a licensee of the Commission.

(d) Each broker shall maintain complete records showing the deposit, maintenance, and withdrawal of money or other property owned by his principals or held in escrow or in trust for his principals. The Commission may inspect these records periodically, without prior notice and may also inspect these records whenever the Commission determines that they are pertinent to an investigation of any specific complaint against a licensee."

Sec. 14. G.S. 93A-17 is amended by adding a new subsection to read:

"(c) For the purposes of Article 2 of this Chapter, the terms 'licensee', 'broker', and 'salesman' shall include only individual persons licensed under this Chapter as brokers and salesmen and shall not include a corporation or other entity licensed under this Chapter."

Sec. 15. G.S. 93A-21(a)(2) is amended by deleting "five thousand dollars ($5,000)" and substituting "ten thousand dollars ($10,000)".

Sec. 16. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 21st day of March, 1983.

H. B. 258 CHAPTER 82

AN ACT TO AMEND THE PRACTICING PSYCHOLOGISTS LICENSING ARTICLE.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 90-270.6 is rewritten to read: "For the purpose of carrying out the provisions of this Article, there is created a North Carolina State Board of Examiners of Practicing Psychologists, which shall consist of seven members appointed by the Governor."

Sec. 2. The second sentence of G.S. 90-270.6 is rewritten to read: "At all times three members shall be licensed practicing psychologists, two members shall be licensed psychological associates, and two members shall be members of the public who are not licensed under this Article."

Sec. 3. G.S. 90-270.6 is amended by adding the following at the end of the section: "The Governor shall appoint the two public members on July 1, 1983. One member shall serve an initial term of two years and one member shall serve an initial term of three years. Thereafter all terms shall be for three

years. As the term of a public member expires, or if one should become vacant for any reason, the Governor shall appoint a new public member within 60 days of the vacancy's occurring. No member, either public or licensed under this Article, shall serve more than two complete consecutive terms."

Sec. 4. G.S. 90-270.11 is amended by deleting the words and figures "sixty dollars ($60.00)" each time they appear and by substituting the words and figures "not more than one hundred twenty dollars ($120.00)."

Sec. 5. The first sentence of the second paragraph of G.S. 90-270.4(a) is amended by deleting the words "has served in this capacity prior to July 1, 1979" and substituting therefor "was serving in this capacity on December 31, 1979".

Sec. 6. Article 18A of Chapter 90 is amended by adding a new section to read:

"§ 90-270.19. *Injunctive Authority.*—The Board may apply to the superior court for an injunction to prevent violations of this Article or of any rules enacted pursuant thereto. The court is empowered to grant such injunctions regardless of whether criminal prosecution or other action has been or may be instituted as a result of such violation."

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1983.

S. B. 42 CHAPTER 83

AN ACT SHORTENING THE PERIOD FOR REVOCATION OF THE NATURAL PARENT'S CONSENT TO AN ADOPTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-11 is amended by substituting the word "three" for the word "six" in line 5.

Sec. 2. This act shall become effective June 1, 1983, and applies to all consents for adoptions executed on and after that date.

In the General Assembly read three times and ratified, this the 21st day of March, 1983.

S. B. 56 CHAPTER 84

AN ACT TO AUTHORIZE PROPERTY OWNER PARTICIPATION IN THE COSTS OF ROAD MAINTENANCE, IMPROVEMENTS, ADDITIONS AND ACQUISITION OF RIGHT-OF-WAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18 is amended by the addition of a new subsection (27) which reads as follows:

"(27) The Department of Transportation is authorized to establish policies and promulgate rules providing for voluntary property owner or highway user participation in the costs of maintenance or improvement of roads which would not otherwise be necessary or would not otherwise be performed by the Department of Transportation and which will result in a benefit to the property owner or highway user. By way of illustration and not as a limitation, such costs include those incurred in connection with drainage improvements or maintenance, driveway connections, dust control on unpaved roads, surfacing or

paving of roads and the acquisition of rights-of-way. Property owner and highway user participation can be in the form of materials, money, or land (for right-of-way) as deemed appropriate by the Department of Transportation. The authority of this section shall not be used to authorize, construct or maintain toll roads or bridges."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1983.

S. B. 144 CHAPTER 85

AN ACT TO PROMOTE FAIR COMMERCIAL PRACTICES IN THE WHOLESALE WINE INDUSTRY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-1106, 18B-1107, and 18B-1110 are each amended by designating the present language as subsection "(a) Authorization." and adding a new subsection to read:

"(b) Distribution Agreements. Wine distribution agreements are governed by Article 12 of this Chapter."

Sec. 2. Chapter 18B of the General Statutes is amended by adding a new Article to read:

"ARTICLE 12.

"Wine Distribution Agreements.

"§ 18B-1200. *Construction; findings and purpose.*—(a) This Article shall be liberally construed and applied to promote its underlying purposes and policies.

(b) The underlying purposes and policies of the Article are:

(1) To promote the compelling interest of the public in fair business relations between wine wholesalers and wineries, and in the continuation of wine wholesaleships on a fair basis;

(2) To protect wine wholesalers against unfair treatment by wineries;

(3) To provide wine wholesalers with rights and remedies in addition to those existing by contract or common law; and

(4) To govern all wine wholesaleships, including any renewals or amendments, to the full extent consistent with the Constitution of this State and the United States.

(c) The effect of this Article may not be waived or varied by contract or agreement. Any contract or agreement purporting to do so is void and unenforceable to the extent of that waiver or variance.

"§ 18B-1201. *Definitions.*—As used in this Article, unless the context requires otherwise:

(1) 'Agreement' means a commercial relationship between a wine wholesaler and a winery. The agreement may be of a definite or indefinite duration and is not required to be in writing. Any of the following constitutes *prima facie* evidence of an 'agreement' within the meaning of this definition:

a. A relationship whereby the wine wholesaler is granted the right to offer and sell a brand offered by a winery;

b. A relationship whereby the wine wholesaler, as an independent business, constitutes a component of a winery's distribution system;

c. A relationship whereby the wine wholesaler's business is substantially associated with a brand offered by a winery;

d. A relationship whereby the wine wholesaler's business is substantially reliant on a winery for the continued supply of wine;

e. The shipment, preparation for shipment, or acceptance of any order by any winery or its agent for any wine or beverages to a wine wholesaler within this State;

f. The payment by a wine wholesaler and the acceptance of payment by any winery or its agent for the shipment of any order of wine or beverages intended for sale within this State.

(2) 'Wine wholesaler' means any holder of a wine wholesaler permit, wine importer permit, or bottler permit issued under the authority of this Chapter.

(3) 'Winery' means any holder of an unfortified winery permit, fortified winery permit, limited winery permit, or nonresident wine vendor permit issued under the authority of this Chapter who sells at least 1,000 cases of wine in North Carolina per year.

(4) 'Territory' or 'sales territory' means the area of primary sales responsibility expressly or implicitly designated by any agreement between any wine wholesaler and winery for a brand offered by any winery. The term 'area of primary sales responsibility' may not be construed as restricting sales or sales efforts by any wine wholesaler attempting to sell wines within any designated sales territory.

"§ 18B-1202. *No inducement, coercion, or discrimination.*—No winery may:

(1) Induce, coerce, or attempt to induce or coerce any wine wholesaler to accept delivery of any alcoholic beverage or any other commodity which has not been ordered by the wine wholesaler;

(2) Induce, coerce, or attempt to induce or coerce any wine wholesaler to do any illegal act by any means, including threatening to amend, cancel, terminate, or refuse to renew any agreement existing between a winery and a wine wholesaler;

(3) Require a wine wholesaler to assent to any condition, stipulation, or provision limiting the wholesaler in his privilege to sell a product offered by any other winery;

(4) Unlawfully discriminate on the basis of race, color, creed, sex, religion, or national origin in awarding or maintaining agreements covered by this Article. Wineries who contract with wholesalers in this State shall make reasonable efforts to establish and maintain agreements with wholesalers who are females and members of minority groups.

"§ 18B-1203. *Primary area of responsibility.*—(a) Each agreement shall designate a sales territory of the wholesaler. No winery may enter into more than one agreement for each brand of wine or beverage it offers in any territory unless the Commission, using the standards of G.S. 18B-1204(4), orders otherwise. Territories served by a wine wholesaler on the effective date of this Article are designated sales territories within the meaning of this section. Within 30 days of the effective date of this Article, each winery shall notify the Commission in writing of all designations of sales territories as of the effective date of this Article. Redesignations occurring after the effective date of this Article shall be reported to the Commission within 30 days. No provisions of this Article, however, may prohibit the continuation of a multi-wholesaler agreement entered into before the effective date of this Article as between the winery and the original wine wholesalers thereto.

(b) This section may not be construed as restricting sales or sales efforts by any wine wholesaler attempting to sell wines within any designated sales territory.

"§ 18B-1204. *Cancellation.*—Notwithstanding the terms, provisions, or conditions of any agreement, no winery may amend, cancel, terminate, or refuse to continue to renew any agreement, or cause a wholesaler to resign from an agreement, unless good cause exists for amendment, termination, cancellation, nonrenewal, noncontinuation, or resignation. 'Good cause' does not include a change in ownership of a winery. 'Good cause' does include:

(1) Revocation of the wholesaler's permit or license to do business in this State;

(2) Bankruptcy or receivership of the wholesaler;

(3) Assignment for the benefit of creditors or similar disposition of the assets of the wholesaler; or

(4) Failure of the wholesaler to comply substantially, without reasonable excuse or justification, with any reasonable and material requirement imposed upon him by the winery, including a substantial failure by a wine wholesaler to:

(i) maintain a sales volume of the brands offered by the winery, or

(ii) render services comparable in quality, quantity, or volume to the sales volumes maintained and services rendered by other wholesalers of the same brands within the State.

In any determination as to whether a wholesaler has failed to comply substantially, without reasonable excuse or justification, with any reasonable and material requirement imposed upon him by the winery, consideration shall be given to the relative size, population, geographical location, number of retail outlets, demand for the products applicable to the territory of the wholesaler in question and to comparable territories, and any reasonable sales quota set by the agreement. The burden of proving good cause for amendment, termination, cancellation, nonrenewal, noncontinuation, or resignation is on the winery.

"§ 18B-1205. *Notice of intent to terminate.*—(a) Except as provided in subsection (c), a winery shall provide a wholesaler at least 90 days prior written notice of any intention to amend, terminate, cancel, or not renew any agreement. The notice, a copy of which shall be mailed at the same time to the Commission, shall state all the reasons for the intended amendment, termination, cancellation, or nonrenewal.

(b) When the reasons relate to conditions that can be rectified by the wholesaler, he has 60 days in which to do so. If the wholesaler rectifies the conditions within the 60-day period, he shall give written notice thereof to the winery and to the Commission. If the wholesaler has rectified the conditions, the proposed amendment, termination, cancellation, or nonrenewal is void, except that when the winery contends that the wholesaler has not completely rectified the conditions, the winery may, within 15 days after the expiration of the 60-day period, request a hearing before the Commission to determine if the wholesaler has rectified all the conditions.

(c) When the reasons relate to conditions that cannot be rectified by the wholesaler within the 60-day period, the wholesaler may request a hearing before the Commission to determine if the winery has good cause for the amendment, termination, cancellation, or nonrenewal of the agreement. The burden of proving good cause for the amendment, termination, cancellation, or nonrenewal is on the winery.

(d) Upon receiving a written request from the winery or wholesaler for a hearing, the Commission shall, after notice and hearing, determine if the wholesaler has rectified the conditions or if good cause exists for the amendment, termination, cancellation, or nonrenewal of the agreement, as appropriate. In any case in which a petition is made to the Commission for such a determination, the agreement in question shall continue in effect, pending the Commission's decision and any judicial review thereof.

(e) In all proceedings before the Commission, the Commission shall ensure that no agreements covered by this Article result in unlawful discrimination on the basis of race, color, creed, sex, religion, or national origin.

(f) No notice is required and an agreement may be immediately terminated, amended, canceled, or allowed to expire if the reason for the amendment, termination, cancellation, or nonrenewal is:

(1) The bankruptcy or receivership of the wholesaler;

(2) An assignment for the benefit of creditors or similar disposition of the assets of the business; or

(3) Revocation of the wholesaler's permit or license.

"§ 18B-1206. *Transfer of business.*—(a) No winery may unreasonably withhold or delay consent to any transfer of the wholesaler's business or transfer of the stock or other interest in the wholesaleship whenever the wholesaler to be substituted meets the material and reasonable qualifications and standards required of the winery's wholesalers.

(b) Notwithstanding subsection (a), no winery may withhold consent to, or in any manner retain a right of prior approval of, the transfer of the wholesaler's business to a member or members of the family of the wholesaler. Subsequent to such a transfer, the rights and obligations of the wholesaleship and its owners are in all respects governed by the provisions of this Chapter. As used in this subsection, 'family' means the spouse, parents, siblings, and lineal descendants, including those by adoption, of the wholesaler.

"§ 18B-1207. *Judicial remedies.*—(a) If a winery violates any provision of this Article, a wholesaler may maintain a suit against the winery. The court may grant injunctive and other appropriate relief, including damages to compensate the wholesaler for the value of the agreement and any good will, to remedy violations of this Article.

(b) Any winery that amends, cancels, terminates, or refuses to renew any wine agreement, or causes a wholesaler to resign from an agreement shall compensate the wine wholesaler for the wine wholesaler's wine inventory. The amount of compensation shall include the F.O.B. costs of the wine inventory and any freight charges incurred by the wine wholesaler in receiving them.

"§ 18B-1208. *Price of product.*—No winery, whether by means of a term or condition of an agreement or otherwise, may directly or indirectly fix or maintain the prices at which the wholesaler may sell any wine or beverage.

"§ 18B-1209. *Retaliatory action prohibited.*—No winery may take retaliatory action against a wholesaler who files or manifests an intention to file a complaint alleging that the winery violated a State or federal law or rule. Retaliatory action includes refusal without good cause to continue the agreement or a material reduction in the quality of service or quantity of products available to the wholesaler under the agreement.

"§ 18B-1210. *Management.*—No winery may require or prohibit any change in management or personnel of any wholesaler unless the current or potential

management or personnel fails to meet reasonable qualifications and standards required by the winery.

"§ 18B-1211. *No discrimination.*—No winery may discriminate among its wholesalers in any business dealings, including the price of wine sold to the wholesaler, unless the classification among its wholesalers is based upon reasonable grounds.

"§ 18B-1212. *No waiver.*—No winery may require any wholesaler to waive compliance with any provision of this Chapter. Nothing in this Chapter, however, may be construed to limit or prohibit good faith settlements of disputes voluntarily entered into between the parties.

"§ 18B-1213. *Obligations of purchaser.*—The purchaser of a winery is obligated to all the terms and conditions of an agreement in effect on the date of the purchase, except for good cause, which includes,

(i) revocation of the wholesaler's permit or license to do business in this State,

(ii) bankruptcy or insolvency of the wholesaler,

(iii) assignment for the benefit of creditors or similar disposition of the assets of the wholesaler, or

(iv) failure by the wholesaler to comply substantially, without reasonable excuse or justification, with any reasonable and material requirement imposed upon him by the winery.

As used in this Article, 'purchase' includes the sale of stock, sale of assets, merger, lease, transfer, or consolidation.

"§ 18B-1214. *Prohibited practices enumerated.*—It is a violation of this Article for any winery, directly or indirectly, to engage in any of the following practices:

(1) To restrict the sale of any equity or indebtedness or the transfer of any securities of any wholesaler or in any way prevent or attempt to prevent the transfer, sale, or issuance of shares of stock or indebtedness to employees, personnel of the wholesaler, or heirs of the principal owner, as long as basic financial requirements of the winery are complied with and the sale, transfer, or issuance does not have the effect of accomplishing a sale of the wholesaler;

(2) To impose unreasonable standards of performance upon a wholesaler;

(3) To prohibit directly or indirectly the right of free association among wholesalers for any lawful purpose.

"§ 18B-1215. *Intent of nondiscrimination.*—It is the intent of this Article that there shall be no unlawful discrimination based on race, color, creed, sex, religion, or national origin in any aspect of the awarding or maintaining of agreements covered by this Article.

"§ 18B-1216. *Relation of Article to other laws.*—Nothing in this Article relieves a winery or wholesaler of any obligation, duty, or prohibition imposed by any other provision of this Chapter or by G.S. 75-1.1 or by any other provision of State law, and the remedies provided in this Article are nonexclusive."

Sec. 3. If any provision of this act is declared invalid or unenforceable, that invalidity or unenforceability does not affect the remaining provisions of this act, and to that end the provisions of this act are severable.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1983.

H. B. 67 CHAPTER 86

AN ACT TO REWRITE AND SIMPLIFY G.S. 14-269 REGARDING CARRYING CONCEALED WEAPONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-269 is rewritten to read as follows:

"(a) It shall be unlawful for any person, except when on his own premises, willfully and intentionally to carry concealed about his person any bowie knife, dirk, dagger, slung shot, loaded cane, metallic knuckles, razor, pistol, gun or other deadly weapon of like kind.

(b) This prohibition shall not apply to the following persons:

(1) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;

(2) Civil officers of the United States while in the discharge of their official duties;

(3) Officers and soldiers of the militia and the National Guard when called into actual service;

(4) Officers of the State, or of any county, city, or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties;

(5) Full-time sworn law enforcement officers, when off-duty, in the jurisdiction where they are assigned, if:

a. Written regulations authorizing the carrying of concealed weapons have been filed with the Clerk of Superior Court in the county where the law enforcement unit is located by the Sheriff or Chief of Police or other superior officer in charge; and

b. Such regulations specifically prohibit the carrying of concealed weapons while the officer is consuming or under the influence of alcoholic beverages.

(c) Any person violating the provisions of this section shall be guilty of a misdemeanor, and shall be punished by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 22nd day of March, 1983.

H. B. 121 CHAPTER 87

AN ACT TO AMEND G.S. 20-16.2 RELATING TO MANDATORY REVOCATION OF LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-16.2(d), as the same is found in Volume 1C of the General Statutes, 1981 Cumulative Supplement, is hereby amended by:

(a) Striking the words "within three days of receipt of notice of revocation" appearing in lines 3 and 4 immediately after the word "writing" and before the word "a" and inserting in lieu thereof the words "prior to effective date of revocation."

(b) Rewriting the fourth sentence thereof, which begins on line 8 with the word "The", to read as follows:

"The hearing shall be conducted in the judicial district where the arrest was made. Hearings shall be rotated among all the counties in the judicial district where the arrest was made if the judicial district contains more than one county. The hearing shall be conducted under the provisions of G.S. 20-16(d) except that the scope of such hearing for the purpose of this section shall cover the issues of whether the law enforcement officer had reasonable grounds to believe the person had been driving or operating a motor vehicle upon a highway or public vehicular area while under the influence of alcoholic beverages, whether the person was placed under arrest, and whether he willfully refused to submit to the test upon the request of the officer."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 22nd day of March, 1983.

S. B. 18 CHAPTER 88

AN ACT TO AMEND DOMICILIARY HOME COMMUNITY ADVISORY COMMITTEES.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 131D of the General Statutes is amended by rewriting G.S. 131D-31 to read:

"(a) Statement of Purpose. It is the intention of the General Assembly that community advisory committees work to maintain the intent of the Domiciliary Home Residents' Bill of Rights within the licensed domiciliary homes in this State. It is the further intent of the General Assembly that the committees promote community involvement and cooperation with domiciliary homes to ensure quality care for the elderly and disabled adults.

(b) Establishment and Appointment of Committees.

(1) A community advisory committee shall be established in each county which has at least one licensed domiciliary home, shall serve all the homes in the county, and shall work with each of these homes for the best interests of the residents. In a county which has one, two, or three homes for the aged and disabled, the committee shall have five members.

(2) In a county with four or more homes for the aged and disabled, the committee shall have one additional member for each home for the aged and disabled in excess of three, up to a maximum of 20 members. In each county with four or more homes for the aged and disabled, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each domiciliary home in the county. Each member must serve on at least one subcommittee.

(3) In counties with no homes for the aged and disabled, the committee shall have five members. Regardless of how many members a particular community advisory committee must have, at least one member of each committee shall be a person involved in the area of mental retardation.

(4) The boards of county commissioners are encouraged to appoint the Domiciliary Home Community Advisory Committees. Of the members,

a minority (not less than one-third, but as close to one-third as possible) must be chosen from among persons nominated by a majority of the chief administrators of domiciliary homes in the county. If the domiciliary home administrators fail to make a nomination within 45 days after written notification has been sent to them requesting a nomination, such appointments may be made without nominations. If the county commissioners fail to appoint members to a committee by July 1, 1983, the appointments shall be made by the Assistant Secretary on Aging, Department of Human Resources, no sooner than 45 days after nominations have been requested from the domiciliary home administrators, but no later than October 1, 1983. In making his appointments, the Assistant Secretary shall follow the same appointment process as that specified for the County Commissioners.

(c) Joint Nursing and Domiciliary Home Community Advisory Committees. Appointment to the Nursing Home Community Advisory Committees shall preclude appointment to the Domiciliary Home Community Advisory Committees except where written approval to combine these committees is obtained from the Assistant Secretary on Aging, Department of Human Resources. Where such approval is obtained, the Joint Nursing and Domiciliary Home Community Advisory Committee shall have the membership required of Nursing Home Community Advisory Committees and one additional member for each home for the aged and disabled present in the county. In counties with no homes for the aged and disabled, there shall be one additional member for every four domiciliary homes in the county. In no case shall the number of members on the Joint Nursing and Domiciliary Home Community Advisory Committee exceed 25. Each member shall exercise the statutory rights and responsibilities of both Nursing Home Committees and Domiciliary Home Committees. In making appointments to this joint committee, the county commissioners shall solicit nominations from both nursing and domiciliary home administrators for the appointment of approximately (but no more than) one-third of the members.

(d) Terms of Office. Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a two- or three-year term at the county commissioners' discretion to ensure staggered terms of office.

(e) Vacancies. Any vacancy shall be filled by appointment of a person for a one-year term. If this vacancy is in a position filled by an appointee nominated by the chief administrators of domiciliary homes within the county, then the county commissioners shall fill the vacancy from persons nominated by a majority of the chief administrators. If the domiciliary home administrators fail to make a nomination by registered mail within 45 days after written notification has been sent to them requesting a nomination, such appointment may be made without nominations. If the county commissioners fail to fill a vacancy, the vacancy may be filled by the Assistant Secretary on Aging, Department of Human Resources no sooner than 45 days after the commissioners have been notified of the appointment or vacancy.

(f) Officers. The committee shall elect from its members a chair, to serve a one-year term.

(g) Minimum Qualifications for Appointment. Each member must be a resident of the county which the committee serves. No person or immediate

family member of a person with a financial interest in a home served by the committee, or employee or governing board member of a home served by the committee, or immediate family member of a resident in a home served by the committee may be a member of that committee. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, Department of Human Resources.

(h) The Division of Aging, Department of Human Resources, shall develop training materials, which shall be distributed to each committee member. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under G.S. 131D-32. The Division of Aging, Department of Human Resources, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties."

Sec. 2. G.S. 131D-32 is rewritten to read as follows:

"(a) The committee shall serve as the nucleus for increased community involvement with domiciliary homes and their residents.

(b) The committee shall promote community education and awareness of the needs of aging and disabled persons who reside in domiciliary homes, and shall work towards keeping the public informed about aspects of long-term care and the operation of domiciliary homes in North Carolina.

(c) The committee shall develop and recruit volunteer resources to enhance the quality of life for domiciliary home residents.

(d) The committee shall establish linkages with the domiciliary home administrators and the county Department of Social Services for the purpose of maintaining the intent of the domiciliary home residents' Bill of Rights.

(e) Each committee shall apprise itself of the general conditions under which the persons are residing in the homes, and shall work for the best interests of the persons in the homes. This may include assisting persons who have grievances with the home and facilitating the resolution of grievances at the local level. The names of all complaining persons and the names of residents involved in the complaint shall remain confidential unless written permission is given for disclosure. The committee shall notify the enforcement agency of all verified violations of the Domiciliary Home Residents' Bill of Rights.

(f) The committee or subcommittee may communicate through the committee chair with the Department of Human Resources, the county Department of Social Services, or any other agency in relation to the interest of any resident.

(g) Each committee shall quarterly visit the homes for the aged and disabled it serves. For each official quarterly visit, a majority of the committee members shall be present. A minimum of three members of the committee shall make at least one visit annually to each family care home and group home for developmentally disabled adults present in the county. In addition, each committee may visit the domiciliary homes it serves whenever it deems it necessary to carry out its duties. In counties with subcommittees, the subcommittee assigned to a home shall perform the duties of the committee under this subsection, and a majority of the subcommittee members must be

present for any visit. When visits are made to group homes for developmentally disabled adults, rules concerning confidentiality as adopted by the Commission for Mental Health, Mental Retardation and Substance Abuse Services shall apply.

(h) The individual members of the committee shall have the right between 10:00 a.m. and 8:00 p.m. to enter the facility the committee serves in order to carry out the members' responsibilities. In a county where subcommittees have been established, this right of access shall be limited to members of the subcommittee which serves that home. A majority of the committee or subcommittee members must be present to enter the facility at other hours. Before entering any domiciliary home, the committee or members of the committee shall identify themselves to the person present at the facility who is in charge of the facility at that time.

(i) The committee shall prepare reports as required by the Department of Human Resources containing an appraisal of the problems of domiciliary care facilities as well as issues affecting long-term care in general. Copies of the report shall be sent to the board of county commissioners, county Department of Social Services and the Division of Aging.

(j) Nothing contained in this section shall be construed to require the expenditure of any county funds to carry out the provisions herein."

Sec. 3. Those facilities licensed pursuant to G.S. 130-9(e)(5) are not covered by this act but are covered by G.S. 130-9.5.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1983.

S. B. 31 CHAPTER 89

AN ACT TO MAKE AMENDMENTS TO THE TERMINATION OF PARENTAL RIGHTS STATUTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-289.23 is hereby amended by adding a new final sentence to read as follows:

"Provided further, that the Clerk of Superior Court shall have jurisdiction for adoptions under the provisions of G.S. 48-12 and Chapter 48 generally."

Sec. 2. G.S. 7A-289.32(3) is hereby amended by deleting the words "for neglect," as they appear on the fourth line of that subdivision.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1983.

H. B. 160 CHAPTER 90

AN ACT TO EXTEND THE EFFECTIVE DATE OF PROBATIONARY OR TEMPORARY CERTIFICATES ISSUED TO NORTH CAROLINA CODE OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 143-151.13(d) is amended by adding after the words "Board's regulations" the words ", or until June 30, 1983, whichever is later,".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1983.

H. B. 181 CHAPTER 91

AN ACT TO EXPAND THE EXTRATERRITORIAL JURISDICTION OF THE NORWOOD TOWN POLICE TO TWO MILES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-286 is amended by deleting "one mile" and inserting in lieu thereof "two miles".

Sec. 1.1. G.S. 15A-402(c) is amended by deleting "one mile" and inserting in lieu thereof "two miles".

Sec. 2. This act applies to the Town of Norwood only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1983.

H. B. 308 CHAPTER 92

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE RELATING TO THE SALE OF REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Section 9.22 of the Charter of the City of Charlotte being Chapter 713, Session Laws of 1965 as amended by Chapter 216, Session Laws of 1967, is amended by the addition of a new paragraph at the end to read:

"The City may convey interests in real property owned by it by private negotiation or sale, with respect to parcels of property having a fair market value of three thousand dollars ($3,000) or less, and Article 12 of Chapter 160A of the General Statutes shall not apply to such dispositions. The City Manager is authorized and empowered to approve such dispositions."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1983.

H. B. 316 CHAPTER 93

AN ACT TO ALLOW THE TOWN OF HILLSBOROUGH TO BE DIVIDED INTO MORE THAN ONE PRECINCT AND TO VALIDATE ELECTIONS AND ACTIONS OF THAT TOWN.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 279, Session Laws of 1947, as rewritten by Section 2 of Chapter 397, Session Laws of 1967, is repealed.

Sec. 2. All elections, ordinances, levy of taxes and other official acts of the Town of Hillsborough since June 29, 1976, are validated, notwithstanding the fact that the Town of Hillsborough has been in more than one election precinct since that date.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1983.

H. B. 337 CHAPTER 94

AN ACT TO EXPAND THE MEMBERSHIP OF THE INDUSTRIAL-AGRICULTURAL DEVELOPMENT COMMISSION OF LENOIR COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of Section 1 of Chapter 801, Session Laws of 1961, is amended by deleting "six" and inserting in lieu thereof "eight".

Sec. 2. Of the two additional persons appointed under this act, one shall be designated for a one-year term beginning on the date of appointment, and one shall be designated for a two-year term beginning on the date of appointment. Thereafter their successors shall be appointed for four-year terms.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1983.

H. B. 344 CHAPTER 95

AN ACT TO CHANGE THE FILING DEADLINE FOR ELECTION TO THE RUTHERFORD COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 359, Session Laws of 1973, as amended by Chapter 1165, Session Laws of 1977 (Session Laws of 1978) is amended by deleting "Friday preceding the 11th Saturday" and inserting in lieu thereof "first Friday in June".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1983.

H. B. 349 CHAPTER 96

AN ACT TO CHANGE THE DEFINITION OF SUBDIVISION FOR SUBDIVISION REGULATION IN SCOTLAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-335(2) is amended by deleting "10 acres" and inserting in lieu thereof "five acres".

Sec. 2. This act applies to Scotland County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1983.

H. B. 350 CHAPTER 97

AN ACT TO PROVIDE FOR THE ELECTION OF MEMBERS OF THE ROWAN COUNTY BOARD OF EDUCATION IN THE GENERAL ELECTION.

The General Assembly of North Carolina enacts:

Section 1. The Rowan County Board of Education shall consist of five members who shall serve for terms of four years each, and, for purposes of electing members of said board, Rowan County is divided into five districts bounded and described as follows:

"District No. 1 - North Rowan High School attendance zone.

District No. 2 - South Rowan High School attendance zone.

District No. 3 - East Rowan High School attendance zone.

District No. 4 - West Rowan High School attendance zone.

District No. 5 - Rowan County School District (the at-large position)."

Sec. 2. In the general election to be held in Rowan County in 1984, there shall be elected three members of the Rowan County Board of Education. One of said members shall be a resident of District No. 1, the North Rowan High School attendance zone, one shall be a resident of District No. 2, the South Rowan High School attendance zone, and one shall be a resident of District No. 4, the West Rowan High School attendance zone. The candidate from District No. 1, the candidate from District No. 2, and the candidate from District No. 4 receiving the highest number of votes in the 1984 general election shall be elected for a term of four years. In the general election to be held in Rowan County in 1986, there shall be elected two members of the Rowan County Board of Education. One of said members shall be a resident of District No. 3, the East Rowan High School attendance zone, and the other shall be from District No. 5, designated as the at-large position on the board. The candidate from District No. 3 and the candidate from District No. 5 receiving the highest number of votes in the 1986 general election shall be elected for a term of four years. In 1988, and quadrennially thereafter, three members shall be elected for a term of four years. In 1990, and quadrennially thereafter, two members shall be elected for a term of four years.

Sec. 3. The members representing the various districts on the Rowan County Board of Education shall be residents of said districts, except for that member filing for District No. 5, the at-large position on the board who need only be a resident of the Rowan County School District, and shall file with the County Board of Elections of Rowan County no earlier than 12:00 noon on the

sixteenth Friday and no later than 12:00 noon on the twelfth Friday before the general election, a notice of candidacy which shall give the candidate's name, address, place of residence and a statement that he desires to be a candidate for membership on the said Rowan County Board of Education for the district in which he resides, or the at-large position on the board. The election of said members of said board shall be in the general election and shall be by nonpartisan election. The Board of Elections of Rowan County shall prepare a separate ballot for the election of said members which shall, among other things, contain the name of the candidate, the school district that he desires to represent, including the at-large position, and shall not contain any reference to party affiliation in any manner or form. The said candidates for membership on the Rowan County Board of Education shall be voted on at large by the eligible voters of the Rowan County School District, and the Board of Elections of Rowan County shall canvass and judicially determine the results of said election and declare the members so elected. All persons elected shall serve until their successors are elected and qualified, and any vacancy occurring on the Rowan County Board of Education by death, resignation or otherwise shall be filled by the remaining members of the Rowan County Board of Education for the unexpired term, but the person appointed to fill such vacancy where the vacancy occurs in Districts 1, 2, 3 and 4 must be from the same district as the person whose death, resignation or removal created the vacancy on the board. Where the vacancy is created from District No. 5, the at-large position, the only requisite is that the individual appointed to fill that vacancy be a resident of the Rowan County School District.

Sec. 4. The election of said members of the Rowan County Board of Education, as hereinabove provided, shall be governed by Chapter 163 of the General Statutes, insofar as the same be applicable and not in conflict with the expressed terms of this act. The Rowan County Board of Elections is hereby authorized and empowered to create any necessary precincts, to appoint any necessary election officials and to set up and establish all necessary books and records for conduct of said election. The results of the election shall be determined in accordance with the provisions of G.S. 163-292.

Sec. 5. The terms of the current members of the Rowan County Board of Education shall expire on the first Monday of December after the election of their successors.

Sec. 6. Chapter 165, Session Laws of 1975, is repealed.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1983.

H. B. 359 **CHAPTER 98**

AN ACT TO ALLOW NEW HANOVER COUNTY AND AVERY COUNTY TO NAME AND ASSIGN STREET NUMBERS TO PRIVATE ROADS IN UNINCORPORATED AREAS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 1319, Session Laws of 1979 (Second Session 1980), as amended by Chapter 568, Session Laws of 1981, is rewritten to read:

"Sec. 3. This act applies only to Brunswick, Cabarrus, Avery and New Hanover Counties."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1983.

S. B. 132 **CHAPTER 99**

AN ACT TO PROVIDE FOR THE ELECTION OF THE CHAIRMAN AND VICE-CHAIRMAN OF THE CUMBERLAND COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-41(a) is rewritten to read:

"(a) At the regular meeting of the Cumberland County Board of Education in December of each year, commencing in December 1983, and annually thereafter, the Board shall elect one of its members as Chairman and another as Vice-Chairman for a period of one year, or until a successor is elected and qualified for each position. The Chairman shall preside at all meetings of the Board and carry out such other duties as imposed by law or by resolution of the Board. The Vice-Chairman shall preside in the absence of the Chairman, or at the request of the Chairman if the Chairman is unable to serve in this capacity, and shall carry out such other duties imposed by law or resolution of the Board. If a hearing panel is designated by the Board, as by law provided, that does not contain the Chairman or Vice-Chairman, the Board shall designate a member of said panel as presiding officer for that hearing only. The Superintendent of the Cumberland County Schools shall be ex officio Secretary of the Board and shall keep the minutes of the meetings of the Board and perform such other duties as Secretary as imposed by law or by resolution of the Board. The Superintendent and/or Secretary shall have no vote. The minutes of a hearing panel may be recorded by any person designated by the Superintendent and approved by the Board."

Sec. 2. This act applies only to the Cumberland County Board of Education.

Sec. 3. This act shall become effective May 1, 1983, and the Chairman and Vice-Chairman elected in April of 1983 shall serve until the first regular meeting in December of 1983.

In the General Assembly read three times and ratified, this the 25th day of March, 1983.

S. B. 166 CHAPTER 100

AN ACT TO PERMIT THE TOWN OF BEAUFORT TO DISPOSE OF CERTAIN PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1199, Session Laws of 1981 (Regular Session 1982) is amended by adding a new section to read:

"Sec. 1.1. The Town of Beaufort is authorized to dispose of, or lease for periods longer than 10 years, any or all of the real property presently owned or hereinafter owned by the town within the one block area more particularly described as bounded on the North by Ann Street, on the West by Queen Street, on the East by Pollock Street, and on the South by Taylor's Creek, upon such terms and conditions as the Board of Commissioners may determine without the necessity of complying with requirements of Article 12 of Chapter 160A of the General Statutes."

Sec. 2. Section 2 of Chapter 1199, Session Laws of 1981 (Regular Session 1982) is amended by deleting the words "donated, given or devised to", and inserting in lieu thereof the words "owned by".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1983.

H. B. 99 CHAPTER 101

AN ACT BRINGING FORSYTH COUNTY UNDER GENERAL STATE LAW FOR PISTOL PERMIT FEES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 411 of the 1971 Session Laws is amended in Section 2 by deleting the words "and Forsyth County". The charge for a pistol permit fee in Forsyth County is as provided in G.S. 14-404.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1983.

H. B. 168 CHAPTER 102

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO USE STATE AND FEDERAL FUNDS TO CONSTRUCT, MAINTAIN, LEASE OR OTHERWISE PROVIDE FOR COMMUTER AND RIDESHARING PARKING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18 is amended by adding a new subdivision (27) to read:

"(27) The Department of Transportation may obtain land, either by gift, lease or purchase which shall be used for the construction and maintenance of ridesharing parking lots. The Department may design, construct, repair, and maintain ridesharing parking facilities."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1983.

H. B. 257 CHAPTER 103

AN ACT TO ESTABLISH THREE-YEAR TERMS FOR MEMBERS OF THE STATE BOARD OF REGISTRATION FOR FORESTERS AND TO SET A LIMIT OF TWO CONSECUTIVE TERMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89B-3(a) is rewritten to read:

"(a) A State Board of Registration for Foresters is created to administer the provisions of this Chapter. The Board shall have five members as follows:

(1) four duly practicing registered foresters, at least three of whom hold at a minimum a bachelor's degree from an accredited forestry school, and

(2) one public member.

Each member shall be appointed by the Governor for a three-year term. No member may serve more than two complete consecutive terms."

Sec. 2. Notwithstanding Section 1 of this act, all members currently serving on the Board may continue in office until the expiration of their current terms.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1983.

H. B. 311 CHAPTER 104

AN ACT TO DEFINE THE CORPORATE LIMITS OF THE TOWN OF TROUTMAN IN IREDELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 2.1 of the Charter of the Town of Troutman, being Chapter 144, Session Laws of 1981, is rewritten to read:

"Sec. 2.1. *Corporate boundaries.* The corporate boundaries of the Town of Troutman shall be as shown on a survey and plat by Wesley E. Sprinkle, R.L.S., dated December 23, 1982 and recorded in Book 16 at Page 87 in the Office of the Register of Deeds of Iredell County. An official map or description showing the current town boundaries shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate change to the official map or description of the town shall be made."

Sec. 2. All acts and local ordinances fixing and defining the corporate boundaries of the Town of Troutman are hereby repealed, insofar as they conflict with the provisions of this act.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1983.

H. B. 317 CHAPTER 105

AN ACT TO ANNEX CERTAIN PROPERTY TO THE TOWN OF AYDEN.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Ayden are hereby extended to include the following described area:

"BEGINNING at a point in the north edge of Juanita Avenue, also known as North Carolina Secondary Road 1122, said beginning point being located S 31°-04' E, 10.57 feet from a concrete monument marking the southeast corner of the Ayden Housing Authority tract as shown on a map in Deed Book S39 page 482:

Thence, N 77°-46' E, 847.80 feet along the north line of Juanita Avenue and the new town limits to a point;

Thence, N 37°-45' W, 11.08 feet with the new town limits to an iron stake at the southwest corner of North Hills Subdivision, a corner with the existing town limits;

Thence, with the north line of Juanita Avenue and the existing town limits N 77°-46' E, 500.00 feet to an iron stake;

Thence, with the existing town limits and crossing Juanita Avenue S 12°-14' E, 45.00 feet to the south line of Juanita Avenue;

Thence, with the south line of Juanita Avenue and the new town limits S 77°-46' W, 1331.08 feet to a point in the existing town limits;

Thence, with the existing town limits N 31°-04' W, 36.98 feet to the point of beginning all according to a survey and map by McDavid Associates, Inc. dated January 26, 1983."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1983.

H. B. 190 CHAPTER 106

AN ACT TO ALLOW VARIOUS TOWNS TO INCREASE THE TAX LEVY ON MOTOR VEHICLES TO A MAXIMUM OF FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a1) as rewritten by Chapter 75, Session Laws of 1983 is amended by adding immediately after the words "City of Charlotte" each time those words appear the words ", the City of Elizabeth City, the Town of Columbia, the Town of Creswell, the Town of Edenton, the Town of Hertford, the Town of Roper, the Town of Winfall."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1983.

H. B. 213

CHAPTER 107

AN ACT TO AMEND ARTICLE 7 OF CHAPTER 90 OF THE GENERAL STATUTES RELATING TO THE BOARD OF OSTEOPATHIC EXAMINATION AND REGISTRATION AND TO PERMIT HIGHER REGISTRATION FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-130 is rewritten to read:

"§ 90-130. *Board of Examiners; membership; officers; meeting.*—There shall be a State Board of Osteopathic Examination and Registration consisting of three members appointed by the Governor, whose duty it shall be to administer the provisions of this Article. The members of the Board shall be reputable practitioners of osteopathy and appointed by the Governor from a list provided by the North Carolina Osteopathic Society. For each vacancy, the Society must submit at least three names to the Governor, the recommendation of the president and secretary being sufficient proof of the appointees' standing in the profession. Their term of office shall be for three years and so designated by the Governor that the term of one member shall expire each year. Thereafter annually the Governor shall in like manner appoint one person to fill the vacancy in the Board thus created.

All Board members serving on June 30, 1983, shall be eligible to complete their respective terms. In order to reduce the membership of the Board from five to three, the Governor shall make no appointments to fill the first two vacancies occurring on the Board after June 30, 1983. A vacancy occurring from any other cause shall be filled by the Governor for the unexpired term in the same manner as stated above.

The Board shall meet annually and elect a president, secretary, and treasurer, each to serve one year. The Board shall have a common seal, and shall adopt rules to govern its actions; and the president and secretary shall be empowered to administer oaths. The Board shall meet annually upon the call of the president. Two members of the Board shall constitute a quorum, and no certificate to practice osteopathy shall be granted on an affirmative vote of less than two. The Board shall keep a record of its proceedings and a register of all applicants for certificates giving the name and location of the institution granting the applicant the degree of doctor of or diploma in osteopathy, the date of his or her diploma, and whether the applicant was rejected or a certificate granted. The record and registers shall be *prima facie* evidence of all matters recorded therein."

Sec. 2. The first sentence of the third paragraph of G.S. 90-132 is rewritten to read:

"Every person licensed to practice osteopathy by the Board of Osteopathic Examination and Registration shall, during January of each year, register his name, office and residence addresses, and such other information as the Board may deem necessary with the Board secretary and shall pay a registration fee fixed by the Board not exceeding fifty dollars ($50.00)."

Sec. 3. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 28th day of March, 1983.

H. B. 256 **CHAPTER 108**

AN ACT TO AMEND CHAPTER 89D, CONCERNING LANDSCAPE CONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89D-4(a) is rewritten to read:

"(a) There is created the North Carolina Landscape Contractors' Registration Board (hereinafter called the Board) which shall issue registration certificates of title to landscape contractors. The Board shall be composed of nine members appointed as follows: Two by the Governor to represent the public at large; two by the Commissioner of Agriculture; two practicing nurserymen operating a nursery certified by the North Carolina Department of Agriculture Plant Pest Inspection Program appointed by the Board of Directors of the North Carolina Association of Nurserymen, Inc.; two registered landscape contractors in the business of landscape contracting appointed by the Board of Directors of the North Carolina Landscape Contractors' Association, Inc.; and one registered landscape architect appointed by the Board of Directors of the North Carolina Chapter of the American Society of Landscape Architects. All appointments shall be for three-year terms and no member shall serve more than two complete consecutive terms.

Any vacancy on the Board created by death, resignation or otherwise shall be filled for the unexpired term by the initial appointing authority and all members shall serve until their successors are appointed and qualify."

Sec. 2. The last sentence of G.S. 89D-5(a) is repealed.

Sec. 3. G.S. 89D-5(b) is rewritten to read:

"(b) Any person who applies to the Board to be registered and titled as a landscape contractor shall be required to take an oral or written examination to determine his qualifications. Each application for registration by examination shall be accompanied by an application fee of fifty dollars ($50.00).

The Board shall compile a manual from which the examination will be prepared. The examination fee shall not exceed twenty-five dollars ($25.00). Anyone failing to pass an examination may be re-examined upon payment of the same fee as that charged to persons taking the examination for the first time, in accordance with such rules as the Board may adopt pertaining to examinations and re-examinations.

If the results of the examination are satisfactory, the Board shall issue the applicant a certificate authorizing him to be titled as a landscape contractor in the State of North Carolina upon payment of the initial certification fee as outlined in subsection (c)."

Sec. 4. Schedule. All members of the Board serving on the effective date of this act shall complete their respective terms. No member appointed on or after the effective date of this act shall serve more than two complete consecutive three-year terms.

In order to stagger the terms of board members, the following initial appointments shall be made:

The Board of Directors of the North Carolina Association of Nurserymen, Inc., shall appoint one member on December 1, 1983, and one on December 1, 1985.

The Board of Directors of the North Carolina Landscape Contractors Association, Inc., shall appoint one member on December 1, 1983, and one member on December 1, 1985.

The Governor shall appoint one member on December 1, 1984, and one member on December 1, 1985.

The Commissioner of Agriculture shall appoint two members on December 1, 1984.

The Board of Directors of the North Carolina Chapter of the American Society of Landscape Architects shall appoint one member on December 1, 1983.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1983.

H. B. 296 CHAPTER 109

AN ACT RELATING TO HUNTING FOXES IN ONSLOW COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 606 of the Public-Local Laws of 1939 is repealed.

Sec. 2. G.S. 113-133.1(e) is amended by repealing the line that reads: "Onslow: Public-Local Laws 1939, Chapter 606."

Sec. 3. It is the intent and purpose of this act to make the taking of foxes in Onslow County subject to the general laws of the State.

Sec. 4. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 28th day of March, 1983.

H. B. 109 CHAPTER 110

AN ACT TO AMEND THE PROVISIONS OF THE WILDLIFE PRESERVE AND BIRD SANCTUARY IN ARROWHEAD BEACH SUBDIVISION, CHOWAN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Sections 1 through 5 of Chapter 184 of the 1979 Session Laws are amended to read:

"Section 1. A wildlife preserve and bird sanctuary is established in the Arrowhead Beach Subdivision, Chowan County. The preserve and sanctuary embrace all of the lands described in certain plats recorded in the Registry of Deeds of Chowan County and more particularly set out as follows:

Section 'A' of Arrowhead Beach, Plat Book 3, Page 77.
Section 'B' of Arrowhead Beach, Plat Book 4, Page 18.
Section 'C' of Arrowhead Beach, Plat Book 3, Page 69.
Section 'D' of Arrowhead Beach, Plat Book 3, Page 72.
Section 'E' of Arrowhead Beach, Plat Book 3, Page 79.
Section 'F' of Arrowhead Beach, Plat Book 4, Page 7.
Section 'G' of Arrowhead Beach, Plat Book 4, Page 17.
Section 'H' of Arrowhead Beach, Plat Book 4, Page 38.
Section 'J' of Arrowhead Beach, Plat Book 4, Page 26.
Section 'K' of Arrowhead Beach, Plat Book 4, Page 19.
Section 'L' of Arrowhead Beach, Plat Book 4, Page 27.

Section 'M' of Arrowhead Beach, Plat Book 4, Page 33.

Section 'EE' of Arrowhead Beach, Plat Book 4, Page 40.

Sec. 2. It is the intent of this act to establish a wildlife preserve and bird sanctuary for the preservation and protection of all animals and birds in Arrowhead Beach Subdivision. It is also the intent of this act to prevent the hazards caused by firing weapons in the Arrowhead Beach Subdivision.

Sec. 3. The Arrowhead Property Owners Association is authorized to contract with the Department of Transportation for the erection and maintenance of signs, at all major entrances to Arrowhead Beach Subdivision, stating that the area is a wildlife preserve and a bird sanctuary.

Sec. 4. (a) It is unlawful to trap, hunt, shoot or otherwise kill within the sanctuary and preserve established by this act any bird or animal.

(b) It is unlawful to discharge, fire or shoot a firearm, pistol, a rifle or shotgun except for self protection, protection of the home or the elimination of vermin within the sanctuary and preserve established by this act.

(c) Violation of this section is a misdemeanor punishable by imprisonment for not more than 30 days or by a fine of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00).

Sec. 5. The provisions of this act are enforceable by officers of the Wildlife Resources Commission, the Highway Patrol, the officers of the Chowan County Sheriff's Department and any other State and county officers who have the power of arrest."

Sec. 2. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1983.

H. B. 325 CHAPTER 111

AN ACT TO AMEND THE WEIGHTS AND MEASURES LAW CONCERNING SCALE TECHNICIANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 81A-70 is rewritten as follows:

"Purpose of Article. The purpose of this Article shall be to protect the owners and users of scales and weighing devices in their needs for scale repair and service, and to provide for scale technician registration."

Sec. 2. G.S. 81A-71 is amended by deleting subdivisions (2), (3), and (4) thereof, and by renumbering subdivision (5) as subdivision (2). And further by adding a new subdivision (3) as follows:

"(3) Obtained from the Department an annual certification of the standards of weight which will be used by the scale technician."

Sec. 3. G.S. 81A-72 is amended in the third line thereof by deleting the words "and of bond" between the word "application" and the word "and".

Sec. 4. G.S. 81A-73 is amended in the last sentence thereof by deleting the following phrase between the word "agent" and the word "and":

"if service is upon a scale or weighing device which has been rejected or condemned by an authorized agent,".

Sec. 5. G.S. 81A-74 is repealed.

Sec. 6. G.S. 81A-80 is rewritten as follows:

"(a) The Commissioner may suspend or revoke the registration of any scale technician who violates any provisions of this Article or regulations adopted

thereunder or who shall fail to issue a service certificate or who shall issue a service certificate bearing false statements regarding service rendered.

(b) Any person who violates any provision of this Article shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500,00) or imprisoned for not more than three months or be fined and imprisoned."

Sec. 7. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 30th day of March, 1983.

H. B. 125 CHAPTER 112

AN ACT TO ALLOW THE CHAPEL HILL-CARRBORO BOARD OF EDUCATION TO PAY ITS EMPLOYEES ON THE LAST WORKING DAY OF EACH MONTH.

The General Assembly of North Carolina enacts:

Section 1. The Chapel Hill-Carrboro Board of Education may pay employees, who are employed on a 10-month basis, on the last working day of each month for work performed during that pay period.

Sec. 2. Chapter 307, Session Laws of 1979 is repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 247 CHAPTER 113

AN ACT TO ALLOW CERTAIN TOWNSHIPS TO VOTE ON ALCOHOLIC BEVERAGES SALES AND TO ALLOW OFF-PREMISES UNFORTIFIED WINE SALES IN TOWNSHIPS THAT HAVE VOTED TO PERMIT THE SALE OF MIXED BEVERAGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-600 is amended by adding a new subsection to read:

"(f) Township Elections. In a county where ABC stores have heretofore been established by petition pursuant to law, an election may be called in any township on any of the propositions listed in G.S. 18B-602. The election shall be held by the county board of elections upon request of the county board of commissioners or upon petition of twenty-five percent (25%) of the registered voters of the township. The election shall be conducted and the results determined in the same manner as county elections held under this Article. For purposes of this Article, townships holding any election under this subsection shall be treated on the same basis as counties, and municipalities located within those townships shall be treated on the same basis as cities.

In order for an establishment to qualify for a permit under this subsection, the establishment's gross receipts from food and nonalcoholic beverages shall be greater than its gross receipts from alcoholic beverages."

Sec. 2. G.S. 18B-603(d)(3) is amended by adding a sentence at the end thereof to read:

"The Commission may also issue off-premises unfortified wine permits to any establishment that meets the requirements under G.S. 18B-1001(4) in any

township which has voted to permit the sale of mixed beverages, regardless of any other local act concerning sales of those kinds of alcoholic beverages."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 357 CHAPTER 114

AN ACT TO AUTHORIZE THE BOARD OF COMMISSIONERS OF NEW HANOVER COUNTY TO CLOSE ROADS OR EASEMENTS THAT HAVE BEEN OFFERED FOR DEDICATION BUT NEVER ACCEPTED BY A PUBLIC BODY.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of a county is hereby authorized and empowered to close any road or easement within the county and not within a city that has been offered for dedication but not accepted by any public body.

Sec. 2. The procedures for closing roads or easements offered for dedication, but not accepted, shall be the same as those provided for the closing of public roads under G.S. 153A-241.

Sec. 3. Any person aggrieved by the closing of a road or easement offered for dedication, but not accepted, may appeal the Board of Commissioners' order to the appropriate division of the General Court of Justice within 30 days after the day the order is adopted. The court shall hear the matter *de novo* and has jurisdiction to try the issues arising and to order the road or easement closed upon proper findings of fact by the trier of fact.

Sec. 4. This act applies to New Hanover County only.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 365 CHAPTER 115

AN ACT TO PERMIT THE CITY OF NEW BERN TO ENGAGE IN CERTAIN COMMUNITY DEVELOPMENT ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. The City of New Bern may expend community development funds to make grants to local businesses in order to provide and protect employment opportunities for persons of low income. Such a grant may be made to provide money for acquisition, construction or rehabilitation of capital assets and to provide working capital.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 369 CHAPTER 116

AN ACT TO PROVIDE THAT PERMITS FOR PYROTECHNIC DISPLAYS WITHIN INCORPORATED MUNICIPALITIES IN CATAWBA COUNTY SHALL BE GRANTED BY THE CITY COUNCIL INSTEAD OF THE COUNTY COMMISSIONERS, AND TO PROVIDE THAT THE COUNTY COMMISSIONERS MAY DELEGATE THEIR PERMIT-GRANTING POWERS RELATING TO PYROTECHNIC DISPLAYS AND SALES OF EXPLOSIVES.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 21, Session Laws of 1983, is amended by deleting "Forsyth County" and inserting in lieu thereof "Catawba, Forsyth, and Union Counties, except that they do not apply in the Town of Longview".

Sec. 2. Section 3 of Chapter 117, Session Laws of 1981, as amended by Section 4 of Chapter 21, Session Laws of 1983, is further amended by adding immediately after the word "Mecklenburg" the phrase ", Catawba, Union,".

Sec. 3. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 397 CHAPTER 117

AN ACT TO ELIMINATE THE REQUIREMENT THAT THE CITY OF ASHEVILLE PUBLISH ALL ORDINANCES IN FULL.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Asheville, being Chapter 121, Private Laws of 1931, is amended by repealing Section 17-A, which was enacted by Section 1 of Chapter 186, Private Laws of 1931.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 424 CHAPTER 118

AN ACT TO INCREASE THE MAXIMUM FINE FOR VIOLATION OF MECKLENBURG COUNTY ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-4 is amended by deleting "fifty dollars ($50.00)", and inserting in lieu thereof "five hundred dollars ($500.00)".

Sec. 2. This act applies only to Mecklenburg County.

Sec. 3. This act shall become effective 60 days after ratification, and applies to offenses committed on or after that date, but shall only be applicable to those ordinances which expressly provide for a maximum fine to be imposed for a violation in some amount of money greater than fifty dollars ($50.00).

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 425 CHAPTER 119

AN ACT TO ALLOW CITIES AND COUNTIES TO CONTRACT FOR THE OPERATION OF HUMAN RELATIONS, COMMUNITY ACTION AND MANPOWER DEVELOPMENT PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-492 is amended by adding a new sentence at the end of the first paragraph to read:

"Cities and counties may operate such programs and activities by contracting with and appropriating money to persons, associations, or corporations."

Sec. 2. This act shall apply to Mecklenburg County and the City of Charlotte only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 429 CHAPTER 120

AN ACT TO MAKE A TECHNICAL CORRECTION IN A REFERENCE TO A PLAT OF THE COUNTY BOUNDARY BETWEEN TYRRELL AND WASHINGTON COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 11, Session Laws of 1983 is amended by deleting the words "dated November 11, 1982" and inserting in lieu thereof "dated November 11, 1981".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 437 CHAPTER 121

AN ACT TO PROVIDE THAT THE FILING PERIOD FOR CABARRUS COUNTY BOARD OF EDUCATION SHALL BE THE SAME AS FOR COUNTY OFFICERS GENERALLY.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of Section 2 of Chapter 372, Session Laws of 1979 is rewritten to read: "All candidates shall file for office during the same period for filing notice of candidacy for county officers under G.S. 163-106(c)."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 441 **CHAPTER 122**

AN ACT RELATED TO ZONING BY THE CITY OF ROCKY MOUNT.

The General Assembly of North Carolina enacts:

Section 1. Section 300 of the Charter of the City of Rocky Mount, being Chapter 938 of the 1963 Session Laws is amended by adding the following new language at the end:

"The City Council is hereby empowered, in accordance with the conditions and procedure specified in this act, by ordinance to regulate in any portion or portions of the City of Rocky Mount, including those portions of Nash and Edgecombe Counties in which it has extraterritorial zoning authority, the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry or other purposes.

For any or all these purposes, the City may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the City may provide for the creation of conditional use districts in addition to general use districts.

It is the purpose and intent of this section to permit the City of Rocky Mount to create general use districts in which a variety of uses are permitted, and to also create conditional use districts in which a single use, or a limited number of uses, is permitted upon the issuance by the City Council of a conditional use permit prescribing the conditions under which such use or uses will be permitted. Each conditional use district created shall correspond to a general use district and the use or uses permitted pursuant to the conditional use permit must be a use allowed in the corresponding general use district.

Any person petitioning for rezoning of a tract of land, where conditional use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request conditional use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use or uses intended for the property upon rezoning. The City Council may not consider the intended use or uses in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for conditional use district zoning, the petition must specify the actual use or uses intended for the property specified in the petition, and the intended use or uses must be a use permitted in the corresponding general use district. If the petition is for conditional use district zoning, the City Council shall approve or disapprove the petition on the basis of the specific use or uses requested. If more than one use is requested in a petition for conditional use district zoning, the City Council may approve all the uses

requested, fewer than all uses requested, or a single use. If the petition is approved, the City Council shall issue a conditional use permit authorizing the requested use or uses with such reasonable conditions as the City Council determines will promote the public health, safety and general welfare.

The conditions contained in a conditional use permit issued by the City Council may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the City Council determines will promote the public health, safety and general welfare, provided; however, that such condition shall not include architectural review or controls.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 454 CHAPTER 123

AN ACT TO ALLOW THE TOWN OF TROUTMAN TO APPOINT A TOWN ADMINISTRATOR.

The General Assembly of North Carolina enacts:

Section 1. Article V of the Charter of the Town of Troutman, being Chapter 144, Session Laws of 1981, is amended by adding a new Chapter to read:

"Chapter 1A. Town Administrator.

"Sec. 5.1A. *Town Administrator.* In lieu of establishing the council-manager form of government by ordinance as authorized by Section 5.1 above and by Part 4 of Article 5, Chapter 160A of the General Statutes, the Board of Aldermen may establish the position of Town Administrator by ordinance, and may appoint a Town Administrator to be the chief administrative officer of the Town government. The Administrator shall be responsible to the Board for the proper administration of Town affairs, shall serve at the pleasure of the Board, and shall perform such duties and responsibilities as may be assigned by the Board."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 469 CHAPTER 124

AN ACT TO INCREASE THE MILEAGE ALLOWANCE FOR THE DURHAM COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 657 of the 1975 Session Laws as amended by Chapter 167, Session laws of 1979 is further amended by deleting "fifteen cents (15¢) per mile" and inserting in lieu thereof "the prevailing State reimbursement rate per mile under G.S. 138-6(a)(1)".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 479 CHAPTER 125

AN ACT TO PROVIDE THAT THE CITY OF REIDSVILLE MAY REDUCE WATER RATES OF SENIOR CITIZENS BY ONE DOLLAR PER MONTH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-314 is amended by adding a new subsection to read:

"(a1) A schedule of rents, rates, fees, and charges for water service established by a city may provide a one dollar ($1.00) per month discount for individual customers who are 65 years of age or over."

Sec. 2. This act applies only to the City of Reidsville.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 336 CHAPTER 126

AN ACT TO REGAIN THE STATE'S AUTHORITY OVER INTEREST LAWS, AND TO MAKE APPROPRIATE CHANGES IN THE STATE'S INTEREST LAWS.

The General Assembly of North Carolina enacts:

Section 1. The provisions of § 501, and the amendments made by § 521-524 of United States Public Law 96-221, as well as any modifications made to date, shall not apply to loans, mortgages, credit sales and advances made in this State.

Sec. 2. G.S. 25A-15 is amended to add a new subsection (f) to read as follows:

"(f) Notwithstanding the provisions of subsections (b) or (d), the parties to a consumer credit installment sale contract for the sale of a residential manufactured home which is secured by a first lien on that home or on the land on which such home is located may contract in writing for the payment of a finance charge as agreed upon by the parties. Provided, this subsection shall only apply if the parties would have been entitled to so contract by the provisions of § 501 of United States Public Law 96-221, and have complied with the regulations promulgated thereto.

For the purposes of this subsection (f), a 'residential manufactured home' means a mobile home as defined in G.S. 143-145 (7) which is used as a dwelling."

Sec. 3. G.S. 24-1.2 is amended by adding a new paragraph (3) to read as follows:

"(3) Notwithstanding the foregoing provisions of this section, on an installment loan not exceeding twenty-five thousand dollars ($25,000) which is secured by a first lien on a residential manufactured home, the parties may contract in writing for the payment of interest as agreed upon by the parties; provided, however, that this paragraph shall only apply if the parties would have been entitled to so contract by the provisions of Section 501 of United States Public Law 96-221 and have complied with the regulations promulgated thereunder. The borrower may prepay all or any part of the loan without penalty.

For the purpose of this paragraph (3), a 'residential manufactured home' means a mobile home as defined in G.S. 143-145(7) which is used as a dwelling."

Sec. 4. G.S. 24-1.1 A(c) is amended by adding a new sentence at the end thereof, as follows:

"Provided, if the loan is one described in subsection (a)(1) or subsection (a)(2) above, the parties may agree to the payment of discount points, commitment fees, finance charges, or other similar charges agreed upon by the parties notwithstanding the provisions of any state law limiting the amount of discount points, commitment fees, finance charges or other similar charges which may be charged, taken, received or reserved with respect to a home loan."

Sec. 5. G.S. 24-11(a) is amended in line 6 thereof, between the words "date," and "there" by inserting the following: "but upon which there may be imposed an annual charge not to exceed twenty dollars ($20.00),".

Sec. 6. G.S. 24-1.4 is amended by designating the existing language as subsection (b) and by rewriting the catch line and adding a new subsection (a) as follows:

"§ 24-1.4. *Interest rates for savings and loan associations.*—(a) Notwithstanding any other provision of law, a savings and loan association domiciled in North Carolina may charge interest or collect fees with respect to any loan to the same extent as if the provisions of Section 501 of Public Laws 96-221, as interpreted by the Federal Home Loan Bank Board prior to the effective date of this section, were still in effect in North Carolina."

Sec. 7. G.S. 25A-14(a) is amended by adding a new sentence as follows:

"The annual fee provided in G.S. 24-11(a) may not be imposed."

Sec. 8. Chapter 24 is amended to add a new Section 2.2:

"G.S. 24-2.2. Notwithstanding any other provision of law, banks and savings and loan associations chartered in North Carolina by the State of North Carolina or the federal government shall each be entitled to charge on extensions of credit those interest rates allowed any lender under North Carolina law. Provided, that any extension of credit pursuant to this authority shall be governed by those restrictions or limitations contained in the authorizing statute. Provided further, the authority granted under this section shall not apply to rates provided in Article 15 of Chapter 53, the Consumer Finance Act, nor in Subchapter III of Chapter 54, concerning credit unions."

Sec. 9. G.S. 24-16.1 is amended by adding a new sentence thereto, as follows:

"Provided, any lender approved as a mortgagee by the Federal Housing Administration shall be entitled to make loans under this Article."

Sec. 10. G.S. 24-11 is amended by adding a new subsection (e) to read:

"(e) An annual charge pursuant to this section upon an existing credit card account upon which an annual charge has not previously been imposed may not be imposed unless the lender has given the cardholder at least 30 days notice of the proposed charge, and has advised the cardholder of his right not to accept the new charge. This notice shall be bold and conspicuous, and shall be on the face of the periodic billing statement or on a separate statement which is clearly noted on the face of the periodic billing statement provided to the cardholder. If the cardholder does not accept the new charge upon an existing credit card account, the lender may require that the cardholder make no further use of the account beyond the 30-day period in order to avoid paying the annual charge, but the cardholder shall be entitled to pay off any remaining balance according to the terms of the credit agreement. Nothing in this subsection shall limit the lender from decreasing any rates or fees to the cardholder forthwith. Should any cardholder within 12 months of the initial imposition of an annual charge rescind his credit card contract and surrender all cards issued under the contract to the lender, he shall be entitled to a prorated refund of the annual fee previously charged, credited to the cardholder's credit card account."

Sec. 11. G.S. 24-2.1 is amended by adding new paragraphs as follows:

"Any oral or written offer, acceptance, solicitation or communication to lend or borrow, made in this State to, or received in this State from, a borrower who is not a resident of this State shall be subject to the provisions of this Chapter, applicable federal law, law of the situs of the contract, or law of the residence of any such borrower as the parties may elect.

The provisions of this section shall be severable and if any phrase, clause, sentence or provision is declared to be invalid, the validity of the remainder of this section shall not be affected thereby.

It is the paramount public policy of North Carolina to protect North Carolina resident borrowers through the application of North Carolina interest laws. Any provision of this section which acts to interfere in the attainment of that public policy shall be of no effect."

Sec. 12. G.S. 53-175 is amended by adding a new subsection (c) to read as follows:

"(c) A licensee may collect the fee for returned checks to the extent permitted by G.S. 25-3-512. This subsection shall apply to any loan made by any licensee under this Article."

Sec. 13. G.S. 53-173(e) is amended by adding the language "(a) and (b)" after "53-175."

Sec. 14. G.S. 53-176 is amended by deleting the words "five thousand dollars ($5,000)" in the third line of the first paragraph and substituting in lieu thereof "ten thousand dollars ($10,000)"; by deleting the figure "60" in the fourth line of the first paragraph and substituting in lieu thereof the figure "84"; by deleting the word "first" wherever it appears in the fifth line of the first paragraph; and by deleting the words "the rate in effect as announced and published by the Commissioner of Banks pursuant to G.S. 24-1.1(3) and G.S.

24-1.2(2a)" in the eighth and ninth lines of the first paragraph and substituting in lieu thereof the following:

"the following actuarial rates:

(a) With respect to a loan not exceeding seven thousand five hundred dollars ($7,500), thirty percent (30%) per annum on that part of the unpaid principal balance not exceeding one thousand dollars ($1,000) and eighteen percent (18%) per annum on the remainder of the unpaid principal balance. Interest shall be contracted for and collected at the single simple interest rate applied to the outstanding balance that would earn the same amount of interest as the above rates for payment according to schedule.

(b) With respect to a loan exceeding seven thousand five hundred dollars ($7,500), eighteen percent (18%) per annum on the outstanding principal balance.

The provisions of G.S. 53-173.1, G.S. 53-174 and G.S. 53-175(a) and (b) shall not apply to loans made pursuant to this section. The provisions of G.S. 53-173(b), (c) and (d) and G.S. 53-180(b), (c), (d), (e), (f), (g), and (h) shall apply to loans made pursuant to this section."

Sec. 15. G.S. 53-176 is amended by deleting the second paragraph and substituting in lieu thereof the following:

"Any licensee under this Article shall have the right to elect to make loans in accordance with this section by the filing of a written statement to that effect with the Commissioner and on date of such notification begin making loans regulated by this section for the following 12 months. Annually after such election a licensee may elect to make loans in accordance with this section unless the licensee notifies in writing the Commissioner of its intention to terminate such election."

Sec. 16. Sections 1 through 11 and 16 of this act shall be effective on ratification. Sections 12 and 13 of this act are effective upon ratification and apply only to loans made after its effective date. Sections 14 and 15 of this act shall become effective 60 days after ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

S. B. 189 CHAPTER 127

AN ACT TO MAKE A TECHNICAL CORRECTION IN G.S. 161-22.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 161-22 is amended by deleting the words "chattel mortgages or other".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.

H. B. 243

CHAPTER 128

AN ACT TO CHANGE THE SIZE, TERMS, AND MANNER OF ELECTION OF THE RICHMOND COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 615, Session Laws of 1967 is repealed, and the following new sections substituted in lieu thereof:

"Sec. 3.1. Effective on the last Monday in June of 1984, the Richmond County Board of Education shall consist of seven members. Effective on the last Monday in June of 1986, the Richmond County Board of Education shall consist of five members. Until the last Monday in June of 1984, it shall consist of nine members.

"Sec. 3.2. For the purpose of nominating and electing the five members of the Board of Education of Richmond County, the county shall be divided into five residence districts as follows:

District #1 shall be composed of the entire county.

District #2 shall be composed of Beaverdam, Steels, Mineral Springs, and Black Jack Townships.

District #3 shall be composed of Rockingham Township.

District #4 shall be composed of Wolf Pit Township.

District #5 shall be composed of Marks Creek Township.

"Sec. 3.3. The Richmond County Board of Education shall be elected by the nonpartisan election and run off election method, and the results determined in accordance with G.S. 163-293. The election shall be held on the date of the primary election provided by G.S. 163-1(b), and the run off election, if required, shall be held on the date of the second primary as provided by G.S. 163-111(e). The filing period for candidates shall be the same as for the primary for county officers.

"Sec. 3.4. Members shall reside in and represent the districts according to the apportionment plan in Section 3.2 of this act, but the qualified voters of the entire county shall elect all members of the board.

"Sec. 3.5. In 1984, one member shall be elected from District #3 to serve a two-year term. In 1986 and quadrennially thereafter, one member each shall be elected from District #1 and District #3 to serve a four-year term. In 1988 and quadrennially thereafter, one member each shall be elected from District #2, District #4, and District #5 to serve a four-year term.

"Sec. 3.6. The terms of office of the members of the Richmond County Board of Education elected in 1978 shall terminate on the last Monday in June of 1984. The terms of office of the members of the Richmond County Board of Education elected in 1980 shall terminate on the last Monday in June of 1986. The terms of office of the members of the Richmond County Board of Education who were elected in 1982 shall terminate on the last Monday in June of 1988.

"Sec. 3.7. Members of the Richmond County Board of Education shall take office on the last Monday in June of the year of their election.

"Sec. 3.8. Vacancies in the Richmond County Board of Education in seats elected in 1978, 1980, or 1982 may be filled by appointment of any registered voter of Richmond County for the remainder of the unexpired term.

"Sec. 3.9. Except as otherwise provided in this act, the election of Richmond County Board of Education shall be governed by Chapters 115C and 163 of the General Statutes."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1983.

S. B. 233 CHAPTER 129

AN ACT TO PROVIDE THAT BUNCOMBE COUNTY SHALL BE GOVERNED BY A BOARD OF COMMISSIONERS ELECTED TOGETHER, AND SHALL BE UNDER THE COUNTY-MANAGER PLAN.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 936, Session Laws of 1963 (as amended under G.S. 153A-58 to increase the size to four members plus the chairman) is rewritten to read:

"Section 1. The Board of Commissioners shall consist of five members. In 1984 and quadrennially thereafter, five commissioners shall be elected for four-year terms. A chairman and vice-chairman shall be annually elected by the board of commissioners in accordance with G.S. 153A-39."

Sec. 2. Section 2 of Chapter 936, Session Laws of 1963 as amended by Chapter 54, Session Laws of 1977 is rewritten to read:

"Sec. 2. Buncombe County shall be under the county-manager form of government as provided in Part 2 of Article 5 of Chapter 153A of the General Statutes; provided however, that neither the chairman nor any other member of the board of commissioners may simultaneously hold the office of county manager."

Sec. 3. Section 3 of Chapter 936, Session Laws of 1963 as amended by Chapter 698, Session Laws of 1965 and Chapter 903, Session Laws of 1969 is rewritten to read:

"Sec. 3. The board of Commissioners shall fix their own salary, allowance, and other compensation in accordance with G.S. 153A-92(b)(4), except that the first time salaries are set under this section it may be done other than by adoption of the budget ordinance."

Sec. 4. This act shall not affect the terms of office of the four current commissioners or the chairman of the board of commissioners.

Sec. 5. This act shall become effective on the first Monday in December of 1984, except that the 1984 election shall be conducted in accordance with Section 1.

In the General Assembly read three times and ratified, this the 1st day of April, 1983.

S. B. 150

CHAPTER 130

AN ACT TO PROVIDE SIMPLIFIED PROCEDURES FOR DISPOSAL BY CITIES, COUNTIES, AND SANITARY DISTRICTS OF PERSONAL PROPERTY WITH MINIMAL VALUE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-266 is amended by adding a new subsection to read:

"(c) A city council may adopt regulations prescribing procedures for disposing of personal property valued at less than five hundred dollars ($500.00) for any one item or group of items in substitution for the requirements of this Article. The regulations shall be designed to secure for the city fair market value for all property disposed of and to accomplish the disposal efficiently and economically. The regulations may, but need not, require published notice, and may provide for either public or private exchanges and sales. The council may authorize one or more city officials to declare surplus any personal property valued at less than five hundred dollars ($500.00) for any one item or group of items, to set its fair market value, and to convey title to the property for the city in accord with the regulations. A city official authorized under this section to dispose of property shall, on the first day of February, report in writing to the council on any property disposed of under such authorization from July 1 through December 31 of the previous year, and shall on the first day of August report in writing to the council on any property disposed of under such authorization from January 1 through June 30 of that year. The written report shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange since the last such report was submitted."

Sec. 2. G.S. 153A-176 is amended by adding the following new sentence at the end:

"For purposes of this section, references in G.S. 160A-266(c) to 'one or more city officials' are deemed to refer to one or more county officials designated by the board of county commissioners."

Sec. 3. G.S. 130-128(22) is amended by adding the following new sentence at the end: "For purposes of this subdivision, references in G.S. 160A-266(c) to 'one or more city officials' are deemed to refer to one or more sanitary district officials designated by the sanitary district board."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1983.

H. B. 167 **CHAPTER 131**

AN ACT TO AMEND CHAPTER 20 TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO RAISE AND LOWER THE STATUTORY SPEED LIMITS ON THE STATE HIGHWAY SYSTEM WITHIN MUNICIPALITIES HAVING A NONFUNCTIONING GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-141 is amended by adding a new paragraph to G.S. 20-141(f) to read as follows:

"The Department of Transportation is authorized to raise or lower the statutory speed limit on all highways on the State Highway System within municipalities which do not have a governing body to enact municipal ordinances as provided by law. The Department of Transportation shall determine a reasonable and safe speed limit in the same manner as is provided in G.S. 20-141(d)(1) and G.S. 20-141(d)(2) for changing the speed limits outside of municipalities, without action of the municipality."

Sec. 2. This act is effective July 1, 1983.

In the General Assembly read three times and ratified, this the 4th day of April, 1983.

H. B. 200 **CHAPTER 132**

AN ACT TO REDEFINE THE REQUIRED EXHAUST SYSTEMS ON MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-128(a) is amended by adding immediately after the word "muffler" the words:

", or other exhaust system of the type installed at the time of manufacture,".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1983.

H. B. 407 **CHAPTER 133**

AN ACT TO REQUIRE SENTENCE CREDIT WHEN JUVENILE CONDITIONALLY RELEASED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-655(1) is amended to add the following sentence at the end of that subsection:

"The time that a juvenile spends on conditional release shall be credited toward his maximum period of commitment to the Division of Youth Services."

Sec. 2. G.S. 7A-652(f) is hereby amended by deleting the number "15" and substituting the number "30".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1983.

H. B. 507 **CHAPTER 134**

AN ACT TO ESTABLISH THE BUNCOMBE SCHOOL CAPITAL FUND COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created a Commission to be known as the School Capital Fund Commission for Buncombe County, which Commission shall have and possess all the powers conferred by this act and such other powers as may be useful or necessary to permit it fully to carry out the purposes of this act. The Commission is hereby declared to be a corporation with perpetual succession, the right to adopt and use a corporate seal, to sue and to be sued, and to hold, manage and control the moneys and properties received by it under the provisions of this act. It shall have the right to make reasonable rules and regulations for the conduct of its business.

Sec. 2. The Commission shall consist of five members. Initial members of the Commission shall be Richard B. Stone, Ronald K. Payne, John F. Shuford, Nilous M. Avery, and John L. Simmons, who shall each serve for a term ending June 30, 1985, or as soon thereafter as his successor is appointed. After June 30, 1985, members of the Commission shall serve two-year terms and shall be appointed as follows: one appointed by the Asheville City Council, one appointed by the Asheville City Board of Education, one appointed by the Buncombe County Board of Education, one appointed by the Buncombe County Board of Commissioners, and one appointed by the other four appointees. A member appointed by a local governing board or a school board shall serve at the pleasure of that board. The member appointed by the other appointees shall serve at the pleasure of the majority of the other appointees. Any vacancy occurring during the term of the original appointees shall be filled by the other members of the Commission. Vacancies occurring after June 30, 1985, shall be filled by the appointing authority of the member creating the vacancy to fill the unexpired term.

Sec. 3. A quorum shall be three members of the Commission.

Sec. 4. The first meeting of the Commission shall be held within 30 days after the ratification of this act, at which meeting, or any adjournment thereof, the Commission shall organize, adopt bylaws or rules and regulations to govern its procedure and the conduct of the business and affairs of the Commission and appoint a chairman and vice-chairman from among its membership who shall serve a one-year term and appoint a secretary for a one-year term and until their successors are appointed by the Commission. The finance officer for Buncombe County shall be the finance officer of the Commission. The county finance officer shall give bond for the faithful performance of his duties as the finance officer of the Commission in an amount determined by the Commission. The finance officer of the Commission shall manage the funds of the Commission only as directed by the Commission. At said meeting the Commission shall select and appoint an attorney of the Commission and fix his compensation, such attorney to serve at the pleasure of the Commission.

Sec. 5. Regular or stated meetings of the Commission shall be held at such time and place as may be provided by the Commission in its bylaws or rules and regulations, and special meetings may be held on the call of the chairman after due notice.

Sec. 6. One half of any local government sales and use tax revenue distributed to Buncombe County under G.S. 105-472, and one half of any State sales and use tax revenue distributed to Buncombe County, shall be paid to the Commission by the Secretary of Revenue. This section does not affect the distribution of any local or State sales and use tax revenue to the municipalities in Buncombe County.

Sec. 7. All of the special property tax levied by Buncombe County for necessary capital outlay improvements of County and City Schools in Buncombe County, approved by the voters of Buncombe County in 1959, shall be appropriated by Buncombe County to the Commission and paid by the Tax Collector to the Commission.

Sec. 8. Any other funds appropriated by Buncombe County or any other governmental entity for public school construction of any amount, and public school improvement and renovation projects exceeding fifty thousand dollars ($50,000) in Buncombe County shall be paid to the Commission, provided that the board of county commissioners may choose to designate funds under this section to a specific account under Section 11 of this act rather than pro rata.

Sec. 9. All funds received by the Commission under Sections 6, 7, and 8 of this act shall be placed in a capital reserve fund as provided in Part 2 of Article 3 of Chapter 159 of the General Statutes.

Sec. 10. All funds in the capital reserve fund shall be used to finance public school capital construction and public school improvement and renovation projects in Buncombe County or to retire any indebtedness incurred by the county or a local school board for these purposes. The Commission shall annually divide the funds received that year into two accounts, one for the Buncombe County Board of Education and one for the Asheville City Board of Education. The division of funds shall be pro rata according to average daily membership in the two systems. If the funds in the capital reserve fund are to be expended to retire any indebtedness incurred by the county, they shall be drawn out of the two accounts established by this section pro rata, according to the average daily membership in the two systems. Any funds not expended in a fiscal year shall remain in that system's account for use in later years, including any accrued interest.

Sec. 11. Moneys in the Capital Reserve Fund shall be subject to appropriation by the board of county commissioners. The Commission shall disburse such moneys as a ministerial duty upon receiving a written request from the board of county commissioners after the county board of commissioners has adopted an ordinance and after receipt of a written request from the appropriate board of education indicating it is prepared to enter into a contract, and G.S. 115C-521 shall continue to apply.

Sec. 12. The reasonable and necessary expenses of the Commission, including the compensation of its officers and employees and the cost of any bond required by it, shall be paid by the County of Buncombe. The chairman of the Commission shall, on or about the first day of each calendar month, certify to the governing body of Buncombe County the expenses of the Commission incurred during the preceding month, and the governing body of the county shall forthwith, and within five days thereafter, cause to be paid to the Commission the expenses required to be paid. All such payments shall be charged to the general fund of the county.

Sec. 13. Sections 1 through 5 and 13 of this act are effective upon ratification. Sections 6 through 12 shall become effective July 1, 1983. The Secretary shall make the first distribution of local sales and use tax revenue to the Commission at the end of the quarter that begins on July 1, 1983.

In the General Assembly read three times and ratified, this the 4th day of April, 1983.

S. B. 120 CHAPTER 135

AN ACT AUTHORIZING THE COURT TO ORDER DIRECT PAYMENT FOR FEES FOR APPOINTED COUNSEL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1343(e) is amended by adding at the end of that subsection the following new sentence:

"With the consent of the appointed counsel, the court may order that payments for the cost of that counsel be made to the clerk of superior court on behalf of the counsel; the clerk must promptly pay to the appointed counsel any money received on his behalf."

Sec. 2. G.S. 7A-455(b) is amended by deleting the period at the end of the last sentence of that subsection and by inserting in its place the following:

", but counsel fees ordered paid to the clerk on behalf of the appointed counsel pursuant to G.S. 15A-1343(e) may be paid directly to the counsel."

Sec. 3. This act is effective upon ratification and shall expire July 1, 1985.

In the General Assembly read three times and ratified, this the 4th day of April, 1983.

S. B. 131 CHAPTER 136

AN ACT CONCERNING BOLL WEEVIL ERADICATION.

The General Assembly of North Carolina enacts:

Section 1. Findings and Purpose. The General Assembly of North Carolina finds that due to the interstate nature of boll weevil infestation, it is necessary to secure the cooperation of cotton growers, other State governments and agencies of the federal government, in order to carry out a program of boll weevil suppression and eradication. The purpose of this act is to provide for the certification of a cotton growers' organization to cooperate with State and federal agencies in the administration of cost-sharing programs for the eradication and suppression of the boll weevil (Anthonomus grandis Boheman) and other cotton pests.

Sec. 2. Definitions. As used in this act:

"Board" means the North Carolina Board of Agriculture.

"Commissioner" means the Commissioner of Agriculture of the State of North Carolina.

"Cotton Grower" means any person who is engaged in and has an economic risk in the business of producing or causing to be produced, for market, cotton.

"Department" means the North Carolina Department of Agriculture.

Sec. 3. Certification by Board; Requirements.

(a) The Board may certify a cotton growers' organization for the purpose of entering into agreements with the State of North Carolina, other states, the

federal government and other parties as may be necessary to carry out the purposes of this act.

(b) In order to be eligible for certification by the Board, the cotton growers' organization must demonstrate to the satisfaction of the Board that:

(1) it is a nonprofit organization and could qualify as a tax-exempt organization under Section 501(a) of the Internal Revenue Code of 1954 (26 USC 501(a));

(2) membership in the organization shall be open to all cotton growers in this State;

(3) the organization shall have only one class of members with each member entitled to only one vote;

(4) the organization's board of directors shall be composed of:

a. two cotton growers from this State being appointed by the Commissioner, with the consent of the Board; and

b. one representative of State government from this State, appointed by the Commissioner, with the consent of the Board.

(5) all books and records of account and minutes of proceedings of the organization shall be available for inspection or audit by the Commissioner or his representative at any reasonable time; and

(6) employees or agents of the growers' organization who handle funds of the organization shall be adequately bonded.

Sec. 4. Certification; Revocation.

(a) Upon determination by the Board that the organization meets the requirements of the preceding section, the Board shall certify the organization as the official cotton growers' organization. Such certification shall be for the purposes of this act only, and shall not affect other organizations or associations of cotton growers established for other purposes.

(b) The Board shall certify only one such organization; provided, that the Board may revoke the certification of the organization if at any time the organization shall fail to meet the requirements of this act.

Sec. 5. Referendum; Assessments.

(a) At the request of the certified organization, the Board shall authorize a referendum among cotton growers upon the question of whether an assessment shall be levied upon cotton growers in the State to offset, in whole or in part, the cost of boll weevil or other cotton pest eradication and suppression programs authorized by this act or by any other law of this State.

(b) The assessment levied under this act shall be based upon the number of acres of cotton planted. The amount of the assessment, the period of time for which it shall be levied, and the geographical area to be covered by the assessment shall be determined by the Board.

(c) All affected cotton growers shall be entitled to vote in any such referendum and the Board shall determine any questions of eligibility to vote.

(d) If at least two thirds of those voting vote in favor of the assessment, then the assessment shall be collected by the Department from the affected cotton growers.

(e) The assessments collected by the Department under this act shall be promptly remitted to the certified organization under such terms and conditions as the Commissioner shall deem necessary to ensure that such assessments are used in a sound program of eradication or suppression of the boll weevil or other cotton pests.

(f) The certified organization shall provide to the Department an annual audit of its accounts performed by a certified public accountant.

(g) For the purposes of the Executive Budget Act, G.S. 143-1 et seq., the assessments collected by the Department under this act shall not be "State funds".

Sec. 6. Agreements.

The Board may authorize the Department to enter into agreements with the certified organization, other state governments, the federal government and individual cotton growers as may be necessary to carry out the purposes of this act.

Sec. 7. Failure to Pay Assessments.

(a) A cotton grower who fails to pay, when due and upon reasonable notice, any assessment levied under this act, shall be subject to a penalty of not more than twenty-five dollars ($25.00) per acre, as established in the Board's regulations.

(b) A cotton grower who fails to pay all assessments, including penalties, within 30 days of notice of penalty, shall destroy any cotton plants growing on his acreage which is subject to the assessment. Any such cotton plants which are not destroyed shall be deemed to be a public nuisance. The Commissioner may apply to a court of competent jurisdiction to abate and prevent such nuisance. Upon judgement and order of the court, such nuisance shall be condemned and destroyed in the manner directed by the court. The grower shall be liable for all court costs and fees, and other proper expenses incurred in the enforcement of this section.

Sec. 8. Regulations.

The Board of Agriculture may adopt such regulations as are necessary to carry out the purposes of this act.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1983.

H. B. 68 CHAPTER 137

AN ACT TO AUTHORIZE COUNTIES TO REQUEST AN EXTENSION OF THE HOURS DURING WHICH REGULATIONS OF THE WILDLIFE RESOURCES COMMISSION WOULD PROHIBIT THE INTENTIONAL SWEEPING OF AN AREA WITH LIGHTS OR THE INTENTIONAL SHINING OF LIGHTS ON DEER.

The General Assembly of North Carolina enacts:

Section 1. The sixth line of G.S. 113-291.1(e1), as contained in the 1981 Cumulative Supplement to Volume 3A, Part II, of the General Statutes, is amended by rewriting that line to read: "lights on deer, during the period either:

(1) From 11:00 p.m. until one-half hour before sunrise; or

(2) From one-half hour after sunset until one-half hour before sunrise. Before".

Sec. 2. G.S. 113-291.1 is amended by inserting a new subsection (e2) to read:

"(e2) If the Wildlife Resources Commission has enacted a regulation under the authority of subsection (e1) prohibiting the shining of lights from 11:00 p.m.

until one-half hour before sunrise in any county or area of a county, the Wildlife Resources Commission is authorized, without holding an additional public hearing, to extend the applicability of that regulation to the period one-half hour after sunset to one-half hour before sunrise upon receipt of a resolution from the board of commissioners of the county requesting extension of the period."

Sec. 3. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 4th day of April, 1983.

H. B. 288 CHAPTER 138

AN ACT TO AUTHORIZE CITIES AND COUNTIES TO PROVIDE ALTERNATIVES FOR THE TRANSPORTATION OF INVOLUNTARILY COMMITTED RESPONDENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.14 is amended by adding a new subsection to read:

"(a1) The governing body of a city or county may adopt a plan for transportation of respondents in involuntary commitment proceedings. Law enforcement personnel, volunteers or other public or private agency personnel may be designated to provide all or parts of the transportation required by this Article. Agencies or persons so designated must be trained and the plan shall assure adequate safety and protections for both the public and the respondent. Law enforcement, other affected agencies and the area mental health, mental retardation and substance abuse authority shall participate in the planning. If an agency or persons other than a law enforcement agency are designated by a city or county, the agency or persons so designated shall provide the transportation and follow the procedures in this Article, and references in this Article to a law enforcement officer shall apply to the designated agency or persons."

Sec. 2. G.S. 122-58.14(c) is amended by deleting "other governmental employees" both times it appears in the section and substituting "designated person or agency".

Sec. 3. This act shall become effective May 1, 1983.

In the General Assembly read three times and ratified, this the 4th day of April, 1983.

S. B. 84 CHAPTER 139

AN ACT TO PROVIDE THAT FUNDS FROM THE NORTH CAROLINA ELECTION CAMPAIGN FUND SHALL BE DISTRIBUTED TO POLITICAL PARTIES ON A PRO RATA BASIS ACCORDING TO PARTY VOTER REGISTRATION.

The General Assembly of North Carolina enacts:

Section 1. The first two sentences of G.S. 105-159.1(a) are deleted and the following inserted in lieu thereof:

"Every individual whose income tax liability for the taxable year is one dollar ($1.00) or more may designate on his or her income tax return that one dollar ($1.00) of the amount of tax paid by him or her to the Department of

Revenue shall thereafter be paid by the Secretary of Revenue, in the manner hereinafter prescribed, to the State Treasurer for the use of all political parties as defined herein upon a pro rata basis according to their respective party voter registrations according to the most recent certification of the State Board of Elections; provided, however, that no political party with less than one percent (1%) of the total number of registered voters in the State shall receive any such funds, and the registration of such parties shall not be included in calculating the pro rata distribution."

Sec. 2. This act shall become effective with respect to taxable years beginning on and after January 1, 1983.

In the General Assembly read three times and ratified, this the 5th day of April, 1983.

S. B. 202 CHAPTER 140

AN ACT TO REVISE THE LICENSE FEES FOR HUNTING, TRAPPING, FISHING AND DEALING IN FURS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (c) of G.S. 113-270.2 is amended in the following respects:

1. In subdivision (1) the amount "$27.50" is changed to "$30.00".

2. A new subpart d. is added at the end of subdivision (1a) to read as follows:

"d. Type N available to a nonresident individual of any age - $500.00".

3. In subdivision (2) the amount "$12.50" is changed to "$15.50".

4. In subdivision (3) the amount "$9.50" is changed to "$11.50".

5. In subdivision (4) the amount "$4.50" is changed to "$6.00".

6. In subdivision (5) the amount "$10.00" is changed to "$12.50".

7. In subdivision (6) the amount "$55.00" is changed to "$95.00".

8. In subdivision (7) the amount "$31.00" is changed to "$41.00".

Sec. 2. Subsection (b) of G.S. 113-270.3 is amended in the following respects:

1. In subdivision (1) the amount "$4.50" is changed to "$8.00".

2. In subdivision (2) the amount "$18.50" is changed to "$30.00".

3. In subdivision (3) the amount "$6.00" is changed to "$8.00".

4. In subdivision (4) the amount "$8.00" is changed to "$9.00".

Sec. 3. Subsection (e) of G.S. 113-270.3 is amended by changing the words "comprehensive daily" to "variable short-term comprehensive".

Sec. 4. Subsection (b) of G.S. 113-270.4 is amended by deleting the words and figures "five dollars and twenty-five cents ($5.25)" and by inserting in lieu thereof the words and figures "six dollars ($6.00)".

Sec. 5. Subsection (b) of G.S. 113-270.5 is amended in the following respects:

1. In subdivision (1) the amount "$10.00" is changed to "$15.00".

2. In subdivision (2) the amount "$5.00" is changed to "$8.00".

Sec. 6. Subsection (d) of G.S. 113-271 is amended in the following respects:

1. In subdivision (1a) the amount "$27.50" is changed to "$30.00".

2. Subdivision (1b) is rewritten to read as follows:

"(1b) Resident variable short-term comprehensive fishing licenses which are valid only for use by an individual resident of the State during the day or consecutive days indicated at the following rates:

a. One day - $6.50.

b. Three days - $9.50.

c. Six days - $12.50."

3. A new subpart d. is added at the end of subdivision (1c) to read as follows:

"d. Type N available to a nonresident individual of any age - $500.00".

4. In subdivision (2) the amount "$12.50" is changed to "$15.50".

5. In subdivision (2a) the amount "$9.50" is changed to "$11.50".

6. In subdivision (3) the amount "$4.50" is changed to "$6.00".

7. Subdivision (4) is rewritten to read as follows:

"(4) Resident variable short-term State fishing licenses which are valid only for use by an individual resident of the State during the day or consecutive days indicated at the following rates:

a. One day - $3.25.

b. Three days - $5.50.

c. Six days - $7.50."

8. In subdivision (4a) the amount "$55.00" is changed to "$95.00".

9. Subdivision (4b) is rewritten to read as follows:

"(4b) Nonresident variable short-term comprehensive fishing licenses which are valid only for use by an individual within the State during the day or consecutive days indicated at the following rates:

a. One day - $8.50.

b. Three days - $12.50.

c. Six days - $15.50."

10. In subdivision (5) the amount "$15.50" is changed to "$20.50".

11. Subdivision (6) is rewritten to read as follows:

"(6) Nonresident variable short-term State fishing licenses which are valid only for use by an individual within the State during the day or consecutive days indicated at the following rates:

a. One day - $5.50.

b. Three days - $8.50.

c. Six days - $10.50."

Sec. 7. Subsection (d) of G.S. 113-272 is hereby amended in the following respects:

1. In subdivision (1a) the amount "$27.50" is changed to "$30.00".

2. Subdivision (1a1) is rewritten to read as follows:

"(1a1) Resident variable short-term comprehensive fishing licenses which are valid for use in public mountain trout waters only by an individual resident of the State during the day or consecutive days indicated at the following rates:

a. One day - $6.50.

b. Three days - $9.50.

c. Six days - $12.50."

3. A new subpart d. is added at the end of subdivision (1a2) to read as follows:

"d. Type N available to a nonresident individual of any age - $500.00."

4. In subdivision (1b) the amount "4.50" is changed to "$7.00".

5. In subdivision (1c) the amount $55.00" is changed to "$95.00".

6. Subdivision (1d) is rewritten to read as follows:

"(1d) Nonresident variable short-term comprehensive fishing licenses which are valid for use in public mountain trout waters only by an individual within the State during the day or consecutive days indicated at the following rates:

a. One day - $8.50.

b. Three days - $12.50.

c. Six days - $15.50."

7. In subdivision (2) the amount "$8.00" is changed to "$15.50".

Sec. 8. Subsection (c) of G.S. 113-272.2 is amended in the following respects:

1. In subdivision (1) the amount "$10.00" is changed to "$13.00".

2. In subdivision (2) the amount "$25.00" is changed to "$30.00".

3. In subdivision (3) the amount "$3.00" is changed to "$5.25".

4. In subdivision (4) the amount "$10.00" is changed to "$13.00".

Sec. 9. Subsection (f) of G.S. 113-273 is amended in the following respects:

1. The fourth sentence is rewritten to read as follows:

"All fur-dealer licenses are annual licenses issued beginning July 1 each year running until the following June 30."

2. In subdivision (1) the words and figures "fifty dollars ($50.00)" are deleted and the words and figures "sixty dollars ($60.00)" are inserted in lieu thereof.

3. In subdivision (2) the words and figures "one hundred fifty dollars ($150.00)" are deleted and the words and figures "three hundred dollars ($300.00)" are inserted in lieu thereof.

4. In subdivision (3) the words and figures "one hundred dollars ($100.00)" are deleted and the words and figures "one hundred twenty dollars ($120.00)" are inserted in lieu thereof.

Sec. 10. Notwithstanding Section 9 of this act, fur-dealer licenses issued for the 1983-84 season shall remain valid until July 31, 1984.

Sec. 11. Nothing in this act shall be deemed to repeal or modify the temporary provisions set forth in Section 8 of Chapter 1201, Session Laws 1981 (Regular Session, 1982).

Sec. 12. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 5th day of April, 1983.

H. B. 57 CHAPTER 141

AN ACT TO AMEND THE LAW CONCERNING REPORTING OF PRODUCT LIABILITY INSURANCE UNDERWRITING EXPERIENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-21.2 is rewritten to read:

"§ 58-21.2. *Reporting of product liability experience.*—Every insurer providing product liability insurance or excess insurance above self-insurance to one or more manufacturers, sellers, or distributors in this State shall file with the Commissioner, along with the insurer's annual statement, a report containing the information that is listed on the product liability insurance

supplement as promulgated and amended by the National Association of Insurance Commissioners."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of April, 1983.

H. B. 59 CHAPTER 142

AN ACT TO CLARIFY THE APPLICABILITY OF THE GROUP HEALTH INSURANCE CONTINUATION AND CONVERSION LAW AND TO CLARIFY PROVISIONS REGARDING ISSUANCE OF CONVERSION POLICIES.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of 1981 Session Laws Chapter 706 is amended in line 2 by inserting immediately before the words, "or amended" the following: "renewed,".

Sec. 2. G.S. 58-254.42(4) is amended by adding the following sentence:

"The insurer that insured the group prior to the date of termination shall make a converted policy available to the employee or member."

Sec. 3. G.S. 58-254.45(5) is rewritten to read:

"(5) He failed to continue his insurance for the entire maximum period of three consecutive months following termination of active employment as provided for in Part 1 of this Article, unless that failure to continue was due to a change of insurer by the employer and said change of insurer was consummated during the three-month continuation period. In that event the employee or member shall be entitled to be issued a converted policy by the insurer that provided the group policy to the employer prior to the change of insurer."

Sec. 4. This act shall apply to all group policies, as defined in G.S. 58-254.35(1), that are delivered, issued for delivery, renewed, or amended after the effective date of this act.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of April, 1983.

S. B. 13 CHAPTER 143

AN ACT TO SUBJECT NURSING HOME BEDS IN HOSPITALS TO THE NURSING HOME PATIENTS BILL OF RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-265(b) is amended by adding the following new language immediately before the period:

", and also means a nursing home operated by a hospital which is licensed under Article 13A of Chapter 131 of the General Statutes".

Sec. 2. G.S. 130-264 is amended by adding the following new language immediately before the period at the end of the first sentence:

", and patients in a nursing home operated by a hospital which is licensed under Article 13A of Chapter 131 of the General Statutes".

Sec. 3. G.S. 130-274 is amended by redesignating the existing section as subsection (a) and adding a new subsection:

"(b) In the case of a nursing home operated by a hospital which is licensed under Article 13A of Chapter 131 of the General Statutes, when the Department of Human Resources finds that there has been a substantial failure to comply with the provisions of this Article, it may issue an order preventing the continued operation of the home.

Such order shall be effected by mailing to the hospital by registered or certified mail, or by personal service of, a notice setting forth the particular reasons for such action. Such order shall become effective 20 days after the mailing of the notice, unless the hospital, within such 20-day period, shall give written notice to the Department of Human Resources requesting a hearing, in which case the order shall be deemed to be suspended. If a hearing has been requested, the hospital shall be given a prompt and fair hearing pursuant to the Administrative Procedure Act. At any time at or prior to the hearing, the Department of Human Resources may rescind the order upon being satisified that the reasons for the order have been or will be removed."

Sec. 4. G.S. 130-9.5(a) is amended in the first sentence by inserting after the phrase "within the nursing homes in this State" the phrase ", including nursing homes operated by hospitals licensed under Article 13A of Chapter 131 of the General Statutes".

Sec. 5. G.S. 130-9.5(b) is amended in the first sentence by inserting immediately after the phrase "nursing home" the phrase ", including a nursing home operated by a hospital licensed under Article 13A of Chapter 131 of the General Statutes".

Sec. 6. G.S. 130-9.5(b) is further amended at the end of the second sentence of the third paragraph by deleting the period and by substituting the phrase "and of the governing bodies of the hospitals licensed under Article 13A of Chapter 131 of the General Statutes, which operate nursing homes."

Sec. 7. G.S. 130-9.5(b) is further amended in the last sentence of the third paragraph by inserting immediately after the word "administrators" the phrase "and the governing bodies of the hospitals licensed under Article 13A of Chapter 131 of the General Statutes, which operate nursing homes".

Sec. 8. G.S. 130-9.5(c) and (d) are amended by inserting immediately after the word "administrators", wherever it appears, the phrase "and the governing bodies of the hospitals licensed under Article 13A of Chapter 131 of the General Statutes, which operate nursing homes".

Sec. 9. G.S. 130-9.5(d) is further amended at the end by deleting the phrase "after the nursing home administrators' 45-day period for action has expired" and by substituting the phrase "after the 45-day period for action by the nursing home administrators and the governing bodies of the hospitals licensed under Article 13A of Chapter 131 of the General Statutes, which operate nursing homes".

Sec. 10. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of April, 1983.

S. B. 119 **CHAPTER 144**

AN ACT TO AMEND CHAPTER 54B OF THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO SAVINGS AND LOAN ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54B-4(b)(4), as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by rewriting subpart (iii) therein to read as follows:

"(iii) any relative or spouse who lives in the same house as that person, or any relative of that person's spouse who lives in the same house as that person, or who is a director or officer of the applicant or any of its parents or subsidiaries."

Sec. 2. G.S. 54B-4(b)(33), as the same appears in Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"(33) 'Members' means withdrawable account holders and borrowers in a State mutual association."

Sec. 3. G.S. 54B-10(c), as the same appears in Volume 2B of the General Statutes of North Carolina, is amended in the last line thereof by changing the statutory citation "G.S. 54B-8" to "G.S. 54B-9".

Sec. 4. G.S. 54B-11, as the same appears in Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"§ 54B-11. *Administrator to consider application.*—Upon receipt of an application to organize and establish a savings and loan association, the Administrator shall examine or cause to be examined all the relevant facts connected with the formation of the proposed association. If it appears to the Administrator that the proposed association has complied with all the requirements set forth in this Chapter and the rules and regulations for the formation of a savings and loan association and is otherwise lawfully entitled to be organized and established as a savings and loan association, the Administrator shall present the application to the Commission for its consideration."

Sec. 5. G.S. 54B-12(b), as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by:

(a) deleting sections (4), (5), (6) and (7), and

(b) renumbering sections (8), (9), (10), (11), (12) and (13) as (4), (5), (6), (7), (8) and (9) respectively.

Sec. 6. G.S. 54B-33(c)(6), as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by:

(a) rewriting subsection "e" to read as follows:

"e. At the time of the conversion, acquisition of shares by any person together with any associate or group of persons acting in concert, and by any officer and director, shall be as provided by rules and regulations promulgated by the Administrator."

(b) deleting subsection "f"; and

(c) renumbering subsection "g" as subsection "f".

Sec. 7. G.S. 54B-43, as the same appears in Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"§ 54B-43. *Stock dividends.*—No dividend on stock shall be paid unless the association has the approval of the Administrator."

Sec. 8. G.S. 54B-261, as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by deleting subsection (b) and renumbering subsection (c) as (b).

Sec. 9. G.S. 54B-14(a), as the same appears in Volume 2B of the General Statutes of North Carolina, is amended in the eighth line thereof by inserting after the word "Chapter" and before the word "and" the following words and punctuation ", rules and regulations,".

Sec. 10. G.S. 54B-21, as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by rewriting the last sentence thereof to read as follows:

"Whenever called upon by the Administrator, a stock association shall file in the office of the Administrator a correct list of all its stockholders, the resident address of each, the number of shares of stock held by each, and the dates of issue."

Sec. 11. G.S. 54B-23, as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by:

(a) rewriting the last sentence of subsection (b) thereof to read as follows:

"After such examination and investigation, the Administrator shall approve or deny the application."

(b) deleting the word "Commission" in the first line of subsection (c) and substituting in lieu thereof the word "Administrator".

Sec. 12. G.S. 54B-25, as the same appears in Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"§ 54B-25. *Branch offices closed.*—The board of a State association may discontinue the operation of a branch office upon giving prior written notice to the Administrator, the notice to include the date upon which the branch office shall be closed."

Sec. 13. G.S. 54B-35, as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by:

(a) rewriting the second sentence of subsection (1) thereof to read as follows:

"Such merger agreement must provide the manner and basis of converting or exchanging the withdrawable accounts in the mutual association or associations so merged for withdrawable accounts of the same or a different class of the receiving association, or of converting or exchanging the stock in the stock association or associations so merged into stock or other securities or obligations of the receiving association."

(b) rewriting subsection (3) to read as follows:

"(3) A special meeting of the members or stockholders of each of the associations shall be held separately upon written notice of not less than 20 days to members or stockholders of each association. The notice shall specify the time, place, and purpose for the calling of the meeting. Notice may be given to members of mutual associations by one or more of the following methods: (i) personal service, (ii) postage prepaid mail to the last address of each member appearing upon the records of the association, or (iii) publication of notice at least once a week for four successive weeks in one or more newspapers published in the county or counties where each association has its principal or a branch office, or in a newspaper published in an adjoining county if none is published in the county. Notice may be given to stockholders by personal service or prepaid mail to the last address of each stockholder appearing upon the records of the

association. The Administrator may approve notice to stockholders by publication in the same manner as provided to members of mutual associations. The secretary or other officer of the association shall make proof by affidavit at such meeting of the due service of the notice or call for said meeting."

Sec. 14. G.S. 54B-55, as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by:

(a) deleting subsection (c); and

(b) renumbering the present subsections (d), (e) and (f) to be subsections (c), (d) and (e), respectively.

Sec. 15. G.S. 54B-57(a)(2), as the same appears in Volume 2B of the General Statutes of North Carolina, is amended in the fourth line thereof by inserting after the word "change" and before the word "and" the following words and punctuation ", savings and loan holding company acquisition,".

Sec. 16. G.S. 54B-77, as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by adding a new subsection (c) to read as follows:

"(c) To such extent as the Administrator may authorize by regulation or advice in writing, a State association may issue notes, bonds, debentures, or other obligations or securities."

Sec. 17. G.S. 54B-101(a), as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by deleting the second sentence and substituting in lieu thereof the following:

"Voting for directors by withdrawable account holders shall be weighted according to the total amount of withdrawable accounts held by such members, subject to any maximum number of votes per member which an association may choose to prescribe in the bylaws of the association."

Sec. 18. G.S. 54B-150(a), as the same appears in Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"(a) The board of directors shall establish procedures by which loans are to be considered, approved, and made by the association."

Sec. 19. G.S. 54B-151(j), as the same appears in Volume 2B of the General Statutes of North Carolina, is amended in line 2 by changing the semicolon to a period, and by rewriting the remainder of the paragraph to read as follows:

"Loans made solely upon security of collateral consisting of stock or equity securities which are not listed on a national stock exchange or regularly quoted and offered for trade on an over-the-counter market, shall be considered loans without security."

Sec. 20. G.S. 54B-154, as the same appears in Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"§ 54B-154. *Insider loans.*—The Administrator shall promulgate rules and regulations consistent with this section, and as he deems necessary, to govern the making of loans to officers and directors, and their associates, and companies or other business entities controlled by them.

Such loans shall be in the ordinary business of the association, which do not involve more than normal risk of collectibility, or pose other unfavorable features. Such loans shall be made only when approved by a majority of the directors, by resolution upon which no director interested in the loan proceeds may vote, and only upon a full disclosure of the transaction to the board. Full disclosure must include whether the loan is made on substantially the same

terms, including interest rate and collateral, as those prevailing at the time for comparable loans to other persons. Departure from the terms of loans made to others must be justified and approved as a part of the resolution. The Administrator's rules shall clearly state that no officer, director, or their associates, or companies or other business entities controlled by them, shall enjoy an improper advantage with respect to loan transactions beyond those advantages enjoyed by other loan applicants."

Sec. 21. G.S. 54B-195, as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by rewriting the first sentence therein to read as follows:

"Subject to such limitations and restrictions as the Administrator may prescribe through rules and regulations, any State association is authorized and permitted to make any loan or investment, or engage in any activity, which may be permitted by the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the United States Congress for federal associations whose principal offices are located within this State."

Sec. 22. G.S. 54B-210, as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by:

(a) designating the existing paragraph as subsection (a);

(b) amending new subsection (a) in the fifth line thereof by inserting after the word "Chapter," the following words and punctuation "or investments in the accounts of other associations,";

(c) adding a new subsection (b) to read as follows:

"(b) In addition to those investments set forth in subsection (a), a State association's liquidity fund may also include debt securities which are hedged, subject to options, or redeemable, in the manner allowed to members of the Federal Home Loan Bank Board, by the board's regulations, as amended fron time to time; provided that, limitations upon State associations as to amounts of investments, investments in, or hedged by, a single source, or other limitations upon the investment authority of State associations, shall be as provided by rules promulgated by the Administrator, and not as provided by rules and regulations of the Federal Home Loan Bank Board."

Sec. 23. G.S. 54B-236, as the same appears in Volume 2B of the General Statutes of North Carolina, is amended by changing the period at the end thereof to a comma and adding thereafter the following words and punctuation:

"or any institution that is eligible for insurance by the Federal Savings and Loan Insurance Corporation, the Federal Deposit Insurance Corporation or the National Credit Union Administration."

Sec. 24. G.S. 54B-244(b)(3) is amended by adding a new paragraph l. after paragraph k. at the end thereof to read as follows:

"l. Stock in banking institutions not licensed to do business in this State provided such investment is made in conjunction with any merger or other fundamental change approved by the Administrator under the provisions of G.S. 54B-44."

Sec. 25. Sections 20 and 22 of this act shall become effective 90 days after ratification. The remainder of this act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of April, 1983.

H. B. 399 CHAPTER 145

AN ACT TO PROVIDE THAT THE FEE FOR GUN PERMITS IN MECKLENBURG COUNTY SHALL BE GOVERNED BY GENERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Chapter 411, Session Laws of 1971, as amended by Chapter 101, Session Laws of 1983, is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of April, 1983.

S. B. 153 CHAPTER 146

AN ACT TO AMEND THE NORTH CAROLINA FERTILIZER LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-657 is amended by adding a new subdivision (27) at the end thereof as follows: "(27) The term 'fertilizer coated seed' means seed which has been coated with commercial fertilizer".

Sec. 2. G.S. 106-660 is amended by deleting subsection (f) thereof.

Sec. 3. G.S. 106-660(g) is amended in the first line thereof by deleting the words "wholesale or retail fluid fertilizer distributing plant" and inserting in lieu thereof the words "anhydrous ammonia installation"; and is further amended in the second line thereof by deleting the word "plant" and inserting in lieu thereof the word "installation"; and is further amended by deleting the words "fluid fertilizer" in the fourth sentence thereof and inserting in lieu thereof the words "anhydrous ammonia".

Sec. 4. G.S. 106-659 is amended in the seventh line thereof by inserting the words "or to fertilizer coated seed," between the word "less," and the word "but".

Sec. 5. G.S. 106-665 is amended by adding the following paragraph at the end of subdivision (1) of subsection (b) thereof:

"Provided that when the found relative value of a sample is equal to or exceeds the guaranteed relative value, an overage in primary nutrients may compensate for a deficiency in another primary nutrient up to 10% of the guarantee of the deficient nutrient, not to exceed two units. No compensation will be allowed toward a deficiency if the overage does not compensate for the entire amount of the deficiency or if the deficiency exceeds 10% of the guarantee or the deficiency exceeds two units. If more than one primary nutrient is in penalty status, no compensation will be allowed."

Sec. 6. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 7th day of April, 1983.

H. B. 195 CHAPTER 147

AN ACT TO CLARIFY THE DEPARTMENT OF CORRECTION'S RULE-MAKING PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-11 is amended by rewriting the first sentence to read:

"The Secretary shall adopt rules for the government of the State prison system and shall file and publish such rules in accordance with the provisions of Article 5 of Chapter 150A. In the case of temporary rules, such rules shall become effective immediately upon adoption by the Secretary and shall be filed in accordance with G.S. 150A-13 within two working days of adoption."

Sec. 2. G.S. 150A-1(a) is amended by rewriting the second sentence of the first paragraph to read:

"The following are specifically exempted from the provisions of this Chapter: the Employment Security Commission, the Industrial Commission, the Occupational Safety and Health Review Board, and the Utilities Commission. The Department of Correction is exempt from the provisions of this Chapter, except for Article 5 of this Chapter and G.S. 150A-13 which shall apply."

Sec. 3. G.S. 150A-58(c) is hereby repealed.

Sec. 4. This act shall become effective 60 days after ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1983.

H. B. 274 CHAPTER 148

AN ACT TO AUTHORIZE THE NORTH CAROLINA HOUSING FINANCE AGENCY TO MAKE LOANS TO MORTGAGE LENDERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122A-3(8) is amended to read:

"(8) 'Mortgage' or 'mortgage loan' means a mortgage loan for residential housing, including, without limitation, a mortgage loan to finance, either temporarily or permanently, the construction, rehabilitation, improvement, or acquisition and rehabilitation or improvement of residential housing and a mortgage loan insured or guaranteed by the United States or an instrumentality thereof or for which there is a commitment by the United States or an instrumentality thereof to insure such a mortgage;".

Sec. 2. G.S. 122A-5 is amended by adding a new subdivision (4) to read:

"(4) To make loans to mortgage lenders on terms and conditions requiring the proceeds thereof to be used by such mortgage lenders to originate new mortgage loans to (i) sponsors of residential housing for persons and families of lower income and persons and families of moderate income and (ii) persons and families of lower income and persons and families of moderate income for residential housing. The loans to mortgage lenders and the loans to be made by such mortgage lenders shall be made on such applicable terms and conditions as are set forth in rules and regulations of the Agency; provided, however, that loans shall be made by such mortgage lenders only upon the determination by the Agency that such financing is not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions."

Sec. 3. Chapter 122A of the General Statutes is amended by adding a new section to read:

"§ 122A-5.6. *Terms and conditions of loans to and by mortgage lenders.*—(a) The Agency shall from time to time adopt, modify, amend or repeal rules and regulations governing the making of loans to mortgage lenders and the application of the proceeds thereof. These rules and regulations shall be designed to effectuate the general purposes of this Chapter and the following specific objectives: (i) the construction and rehabilitation of decent, safe and sanitary residential housing available to persons and families of lower income and persons and families of moderate income at prices or rentals that they can afford; (ii) the encourgement of private enterprise and investment to sponsor, build and rehabilitate residential housing for persons and families of lower income and persons and families of moderate income; and (iii) the restriction of the financial return and benefit to the mortgage lenders from such loans to an amount that is necessary to induce their participation and that is not excessive as determined by prevailing market conditions.

(b) Notwithstanding any other provision of this section, the interest rate or rates and other terms of the loans to mortgage lenders made from the proceeds of any issue of bonds of the Agency shall provide that the amounts received by the Agency in repayment of the loans and interest thereon shall be at least sufficient to assure the payment of the principal of and the interest on the bonds as they become due.

(c) The Agency shall enter into a written agreement with each mortgage lender that shall require as a condition of each loan to such mortgage lender that the mortgage lender shall originate new mortgage loans within a reasonable period of time as determined by the Agency's rules and regulations and that such new mortgage loans shall have such stated maturities as determined by the Agency's rules and regulations.

(d) The loans to mortgage lenders shall be general obligations of the respective mortgage lenders owing them. The Agency shall require that such loans shall be additionally secured as to payment of both principal and interest by a pledge and lien upon collateral security. The collateral security itself shall be in such amount as the Agency determines will assure the payment of the principal of and the interest on the bonds as they become due. Collateral security shall be deemed to be sufficient if the principal of and the interest on the collateral security, when due, will be sufficient to pay the principal of and the interest on the bonds. The collateral security shall consist of any of the following items: (i) direct obligations of, or obligations guaranteed by, the State or the United States of America; (ii) bonds, debentures, notes or other evidences of indebtedness, satisfactory to the Agency, issued by any of the following federal agencies: Bank for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan Bank System, Export-Import Bank of Washington, Federal Land Banks, the Federal National Mortgage Association or the Government National Mortgage Association; (iii) direct obligations of or obligations quaranteed by the State; (iv) mortgages insured or guaranteed by the United States of America or an instrumentality of it as to payment of principal and interest; (v) any other mortgages secured by real estate on which there is located a residential structure, the collateral value of which shall be determined by the regulations issued from time to time by the Agency; (vi) obligations of Federal Home Loan Banks; (vii) certificates of deposit of banks or trust companies,

including the trustee, organized under the laws of the United States or any state, which have a combined capital and surplus of at least fifteen million dollars ($15,000,000); (viii) Bankers Acceptances; and (ix) commercial paper that has been classified for rating purposes by Dun & Bradstreet, Inc., as Prime-1 or by Standard & Poor's Corp. as A-1.

(e) The Agency may require as a condition of any loan to a mortgage lender such representations and warranties that it determines to be necessary to secure such loans and to carry out the purposes of this section."

Sec. 4. G.S. 122A-4(f) is amended by deleting the third sentence.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1983.

H. B. 275 CHAPTER 149

AN ACT TO REPEAL THE REQUIREMENT FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY FROM THE UTILITIES COMMISSION BEFORE A HOUSING AUTHORITY CAN EXERCISE THE POWER OF EMINENT DOMAIN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 157-51 is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1983.

H. B. 304 CHAPTER 150

AN ACT TO REQUIRE CONSENT OF THE UNION COUNTY BOARD OF COMMISSIONERS BEFORE LAND IN THAT COUNTY MAY BE CONDEMNED OR ACQUIRED BY A UNIT OF LOCAL GOVERNMENT OUTSIDE THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 40A of the General Statutes is amended by adding a new section to read:

"§ 40A-40.1. *Condemnation in another county.*—Notwithstanding G.S. 40A-3, or any other general or local law conferring the power of eminent domain, before a complaint may be filed under G.S. 40A-41 by a county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county whereby the condemnor seeks to acquire property located in the other county, the condemnor shall furnish proof that the county board of commissioners of the county where the land is located has consented to the taking."

Sec. 2. G.S. 40A-41 is amended by adding a new subdivision to read:

"(9) If required by G.S. 40A-40.1, a copy of the resolution of the county board of commissioners consenting to the taking."

Sec. 3. Notwithstanding the provisions of G.S. 153A-158, Chapter 160A of the General Statutes, Article 12 of Chapter 130 of the General Statutes, or any other general law or local act conferring the power to acquire real property, before any county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county

acquires any real property located in the other county by exchange, purchase or lease, it must have the approval of the county board of commissioners of the county where the land is located.

Sec. 4. This act applies in Union County only.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1983.

H. B. 379 CHAPTER 151

AN ACT TO PROVIDE THAT THE SHERIFF ISSUE BERTIE COUNTY WEAPON PERMITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1073 of the 1959 Session Laws is amended by deleting from Section 4 the word "Bertie".

Sec. 2. Weapon permits in Bertie County are issued by the sheriff of that county pursuant to Chapter 14, Article 52A, of the General Statutes.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1983.

H. B. 418 CHAPTER 152

AN ACT TO AUTHORIZE THE COUNTY OF CASWELL TO CONVEY A PARCEL OF LAND AT PRIVATE SALE TO THE CHEROKEE COUNCIL OF THE BOY SCOUTS OF AMERICA, INC.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the County of Caswell is authorized to convey at private sale, with or without monetary consideration, to the Cherokee Council of the Boy Scouts of America, Inc., its right, title, and interest to the following described parcel of land:

All that certain tract of land lying and being in Yanceyville Township, Caswell County, North Carolina, and adjoining the Cherokee Council of the Boy Scouts of America, Inc. Caswell County, North Carolina, and Beaulah Graves, BEGINNING at an iron and a corner with the Cherokee Council of the Boy Scouts of America, Inc. and Beaulah Graves; thence along the line of the said Council North 87 degrees 58 minutes 00 seconds West 1742.81 feet to an iron and a corner with the Cherokee Council of the Boy Scouts of America, Inc.; thence along the line of said Council North 2 degrees 2 minutes 00 seconds East 589.34 feet to an iron and a corner with the Cherokee Council of the Boy Scouts of America, Inc. and Caswell County, North Carolina; thence continuing along the line of Caswell County, North Carolina, as it meanders South 82 degrees 50 minutes 00 seconds East 742.83 feet to an iron; thence South 43 degrees 38 minutes 00 seconds East 215.22 feet to an iron; thence South 50 degrees 48 minutes 00 seconds East 142.81 feet to an iron; thence South 78 degrees 30 minutes 00 seconds East 103.67 feet to an iron; thence South 78 degrees 58

minutes 00 seconds East 452.40 feet to an iron; thence North 78 degrees 45 minutes East 214.96 feet to an iron and a corner with Caswell County, North Carolina, and Beaulah Graves; thence along the line of Graves South 33 degrees 17 minutes 00 seconds West 157.52 feet to an iron; thence continuing along the line of Graves South 30 degrees 13 minutes 00 seconds East 131.11 feet to the point of Beginning and containing 15.762 acres, and being more particularly described by a plat of survey for the Cherokee Council of the Boy Scouts of America, Inc., dated February, 1983, by William Conway Moorefield, which is incorporated herein by reference as a part of this description.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1983.

H. B. 423 CHAPTER 153

AN ACT TO ADD A SPEED RESTRICTION FOR SUBDIVISION STREETS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-141(b) is amended by adding subsection (3) to read: "(3) Thirty-five miles per hour on subdivision streets outside municipal corporate limits for all vehicles."

Sec. 2. A "subdivision street" is a street or road which has been dedicated to the public to provide ingress and egress to lots or parcels which have been laid out for the purpose of providing residential or industrial sites for sale. These lots or parcels are of insufficient size to be used primarily for farming purposes.

Sec. 3. This legislation does not apply to major arterial streets or expressways dedicated or constructed as an integral part of the subdivision.

Sec. 4. This act applies only to Mecklenburg County.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1983.

H. B. 405 CHAPTER 154

AN ACT TO AUTHORIZE THE CITY OF MONROE TO CONVEY TO THE UNITED STATES OR ANY AGENCY THEREOF WITH OR WITHOUT MONETARY CONSIDERATION, OR TO EXCHANGE WITH THE UNITED STATES OR UNITED STATES POSTAL SERVICE OR ANY AGENCY THEREOF FOR OTHER REAL AND/OR PERSONAL PROPERTY CERTAIN REAL PROPERTY OWNED BY THE CITY OF MONROE.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 12 of Chapter 160A of the General Statutes, the City of Monroe is hereby authorized to convey to the United States or United States Postal Service or any agency thereof, with or without monetary consideration, or to exchange with the United States or any agency thereof for other real or personal property or both, the following described property:

Lying and being in the City of Monroe, Monroe Township, Union County and more particularly described as that city block bounded on the North by

Windsor Street, on the East by Stewart Street, on the South by Talleyrand Avenue and on the West by Charlotte Avenue.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1983.

H. B. 14 CHAPTER 155

AN ACT TO CONFORM STATE LAW ON LEGISLATORS' INCOME TAX DEDUCTIONS FOR BUSINESS EXPENSES TO FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147(1) is amended by adding a new paragraph to read:

"(h) As to State legislators, expenses incurred away from home to the extent allowable under Section 162 of the Internal Revenue Code. For State income tax purposes, the term 'legislative day' as used in Section 162(h) of the Code includes any day the General Assembly was not in session but the legislator's physical presence was recorded at a meeting of a board, commission, committee, or council, funded wholly or partly from State funds, of which the legislator was a member."

Sec. 2. This act is effective upon ratification and applies to taxable years beginning on or after January 1, 1982.

In the General Assembly read three times and ratified, this the 8th day of April, 1983.

H. B. 187 CHAPTER 156

AN ACT TO CLARIFY THE EXEMPTION OF OUT-OF-STATE SALES OF PRINTED MATERIALS FROM TAXATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13 is amended by adding a new subparagraph to read:

"(14.1) Printed material which is sold by a printer to a purchaser within or without this State, when such printed material is delivered in this State to a common carrier or to the United States Postal Service for delivery to the purchaser or the purchaser's designees outside this State, if the purchaser does not thereafter use the printed material in this State."

Sec. 2. This act is effective July 1, 1983.

In the General Assembly read three times and ratified, this the 8th day of April, 1983.

H. B. 467

CHAPTER 157

AN ACT TO DEFINE THE CORPORATE LIMITS OF THE TOWN OF EAST BEND IN YADKIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 144, Private Laws of 1887 is rewritten to read:

"Sec. 2. The corporate limits of the town, until changed in accordance with law, are as follows:

BEGINNING at a concrete monument on the South side of North Carolina Highway #67 Bypass, North Carolina coordinates Y: 900,931.64; X: 1,551,793.14; runs thence North 17 deg. 34 min. 53 sec. West 382.66 feet to a concrete monument on the North side of Highway #67-A; thence continuing North 17 deg. 34 min. 53 sec. West 1,276.39 feet to a concrete monument on the South side of Fairground Road; thence continuing North 17 deg. 34 min. 53 sec. West 651.52 feet to a concrete monument, the Northwest corner of the Town limits; runs thence North 65 deg. 14 min. 03 sec. East 846.90 feet to a concrete monument on the Eastern side of Shady Grove Road; thence continuing North 65 deg. 14 min. 03 sec. East 3,040.24 feet to a concrete monument on the Western side of Marler Road; thence continuing North 65 deg. 14 min. 03 sec. East 1,904 feet to a concrete monument, the Northeastern corner of the Town limits; runs thence South 19 deg. 35 min. 05 sec. East 1,164.05 feet to a concrete monument on the Northern side of Union Hill Road (SR 1550); thence continuing South 19 deg. 35 min. 05 sec. East 2,165.46 feet to a concrete monument on the North side of Nina Street; thence continuing South 19 deg. 35 min. 05 sec. East 1,196.88 feet to a concrete monument on the North Side of North Carolina Highway #67-A; thence continuing South 19 deg. 35 min. 05 sec. East 492.02 feet to a concrete monument on the North side of North Carolina Highway #67 Bypass; thence continuing South 19 deg. 35 min. 05 sec. East 1,311.60 feet to a concrete monument, the Southeast corner of the Town limits; thence South 74 deg. 15 min. 37 sec. West 1,030.33 feet to a concrete monument; thence continuing South 74 deg. 15 min. 37 sec. West 1,504.55 feet to a concrete monument on the Eastern side of Flint Hill Road (SR 1549); thence continuing South 74 deg. 15 min. 37 sec. West 3,435.16 feet to a concrete monument, the Southwest corner of the Town limits; runs thence North 17 deg. 34 min. 53 sec. West 801.47 feet to a concrete monument on the South side of Quaker Avenue (SR 1548); thence continuing North 17 deg. 34 min. 53 sec. West 2,297.96 feet to a concrete monument, the point of beginning. This being a new survey of the Town of East Bend as surveyed by T. Roy Sheek, L 1501 on February 21, 1983, and includes 789.59 acres, more or less."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1983.

S. B. 118

CHAPTER 158

AN ACT TO ALLOW STATE AND LOCAL GOVERNMENTS AND PUBLIC AUTHORITIES TO DEPOSIT PUBLIC MONEYS AT INTEREST IN ANY SAVINGS AND LOAN ASSOCIATION IN THE STATE, AND TO DESIGNATE AS OFFICIAL DEPOSITORIES ONE OR MORE SAVINGS AND LOAN ASSOCIATIONS IN THIS STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-30(b), as the same appears in Volume 3D of the General Statutes of North Carolina, is amended by inserting after the word "bank" and before the word "or" in the first sentence thereof, the following words and punctuation ", savings and loan association,".

Sec. 2. G.S. 159-30(b) is further amended by adding after the word "deposits" in the last sentence the words and punctuation:

", including investment deposits of the mutual fund for local government investment created by G.S. 159-30(c)(6a),".

Sec. 3. G.S. 159-31, as the same appears in Volume 3D of the General Statutes of North Carolina, is amended by:

(a) adding after the word "banks" and before the word "or" in the first sentence of subsection (a), the following words and punctuation ", savings and loan associations,"; and

(b) adding after the word "bank" and before the word "or" in the last sentence of subsection (b), the following words and punctuation ", savings and loan association,".

Sec. 4. G.S. 147-69 is rewritten to read as follows:

"§ 147-69. *Deposits of State funds in banks and savings and loan associations regulated.*—Banks and savings and loan associations having State deposits shall furnish to the Auditor of the State, upon his request, a statement of the moneys which have been received and paid by them on account of the treasury. The Treasurer shall keep in his office a full account of all moneys deposited in and drawn from all banks and savings and loan associations in which he may deposit or cause to be deposited any of the public funds, and such accounts shall be open to the inspection of the Auditor. The Treasurer shall sign all checks, and no depository bank or savings and loan association shall be authorized to pay checks not bearing his official signature. The Treasurer is authorized to use a facsimile signature machine or device in affixing his signature to warrants, checks or any other instrument he is required by law to sign. No bank or savings and loan association shall make any charge for exchange or for the collection of any warrant drawn on the Treasurer or for the transmission of any funds which may come into the hands of the State Treasurer, or any other State department, agency, bureau or commission; provided, that banks and savings and loan associations organized under the laws of the State of North Carolina may charge for each cashier's check issued to deputy collectors of revenue as a means of transmitting to the Commissioner of Revenue the proceeds of collections of revenue, not over twenty cents (20¢) for each check in the amount of not over one thousand dollars ($1,000), and for each check for an amount in excess of one thousand dollars ($1,000), such banks and savings and loan associations may charge not over twenty cents (20¢) plus one-tenth of one percent (1/10 of 1%) of the amount of such check in excess of one thousand dollars ($1,000). The Commissioner of Banks and the bank examiners, and the Administrator of the

Savings and Loan Division, and savings and loan examiners, when so required by the State Treasurer, shall keep the State Treasurer fully informed at all times as to the condition of all such depository banks and savings and loan associations, so as to fully protect the State from loss. The State Treasurer shall, before making deposits in any bank or savings and loan association, require ample security from the bank or savings and loan association for such deposit."

Sec. 5. G.S. 147-78 is rewritten to read as follows:

"§ 147-78. *Treasurer to select depositories.*—The State Treasurer is hereby authorized and empowered to select and designate, wherever necessary, in this State some bank or banks, savings and loan association or associations, or trust company as an official depository of the State."

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1983.

S. B. 170 CHAPTER 159

AN ACT TO EXTEND THE SUNSET PROVISION ON AN ACT TO AUTHORIZE THE CITY OF RALEIGH TO EXERCISE CERTAIN LAND ACQUISITION AND DISPOSAL PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 992, Session Laws of 1981, as amended by Chapter 1166, Session Laws of 1981, is further amended by deleting "June 30, 1983" and inserting in lieu thereof "June 30, 1984".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1983.

S. B. 172 CHAPTER 160

AN ACT RELATING TO THE PRIMA FACIE RULE OF EVIDENCE FOR ENFORCEMENT OF PARKING REGULATIONS IN THE CITY OF WINSTON-SALEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-162.1 is amended by deleting "one dollar ($1.00)" and substituting "not more than five dollars ($5.00)".

Sec. 2. This act applies to the City of Winston-Salem only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1983.

S. B. 192 CHAPTER 161

AN ACT TO PERMIT THE CITY OF HENDERSONVILLE TO AUTHORIZE ITS ZONING BOARD OF ADJUSTMENT TO MAKE DECISIONS PURSUANT TO A SEVEN MEMBER MAJORITY VOTE.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 160A-388(e) or any other public or local act, the Board of Commissioners of the City of Hendersonville may by ordinance authorize its Zoning Board of Adjustment to decide any matters before it upon a vote of seven of the members of the Zoning Board of Adjustment.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1983.

H. B. 166 CHAPTER 162

AN ACT TO PERMIT RATE DEVIATIONS IN WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of G.S. 58-124.23(a) is repealed.

Sec. 2. G.S. 58-124.23 is amended by adding a new subsection to read:

"(c) Any deviation with respect to workers' compensation and employers' liability insurance written in connection therewith as filed under subsection (a) of this section shall apply uniformly to all classifications."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1983.

S. B. 121 CHAPTER 163

AN ACT REGARDING REQUESTS FOR STATE ASSISTANCE BY PRIVATE COLLEGES AND UNIVERSITIES.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 116-11(11) is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1983.

H. B. 82 CHAPTER 164

AN ACT TO EXEMPT CERTAIN VOLUNTEER AND MUNICIPAL FIRE DEPARTMENTS FROM THE OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-148 is amended by adding three new paragraphs at the end to read:

"This section shall not apply to volunteer fire departments not a part of any municipality.

Any municipality with a population of 10,000 or less may exclude its fire department from the operation of this section by a resolution of the governing body of the municipality.

The North Carolina Fire Commission shall recommend regulations and standards for fire departments."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1983.

H. B. 152 CHAPTER 165

AN ACT TO PERMIT TRANSFER OF PRISONERS AMONG COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162-39 as the same appears in the 1982 Replacement Volume 3D Part II is amended by rewriting the first 3 lines of the first sentence of the first paragraph to read:

"Whenever necessary for the safety of a prisoner held in any county jail or to avoid a breach of the peace in any county or whenever prisoners are arrested in such numbers that county jail facilities are insufficient and inadequate for the housing of such prisoners, the resident judge of the superior court or any judge holding superior court in the district or any district court judge may order the prisoner".

Sec. 2. G.S. 162-39 is further amended by inserting the following new sentence immediately after the existing last sentence in the first paragraph:

"Counties are hereby authorized to enter into contractual agreements with other counties to provide jail facilities to which prisoners may be transferred as deemed necessary under this section."

Sec. 3. G.S. 162-39 is further amended in the third line of the second paragraph by substituting the words, "superior or district court judge holding" for the words, "judge holding superior".

Sec. 4. G.S. 162-39 is further amended in the second line of the third paragraph by substituting the words, "the superior or district" for the word, "superior".

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1983.

H. B. 314 CHAPTER 166

AN ACT TO PERMIT DARE, PASQUOTANK AND CHOWAN COUNTIES TO SELL IMPOUNDED DOGS AND CATS TO LICENSED ANIMAL DEALERS.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 67 of the General Statutes is amended by adding after the word "dogs" wherever it appears the words "and cats".

Sec. 2. The second sentence of G.S. 67-32 is amended by adding after the words "each dog" the words "or cat".

Sec. 3. The last sentence of G.S. 67-32 is amended by adding after the word "dog" wherever it appears the words "or cat".

Sec. 4. The second sentence of G.S. 67-32 is amended by adding before the final period the following: "or are to be sold to an animal dealer licensed by the United States Department of Agriculture under the Animal Welfare Act (Chapter 54 of Title 7 U.S.C.)".

Sec. 5. This act applies only to Pasquotank, Dare and Chowan counties.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1983.

H. B. 390 CHAPTER 167

AN ACT TO ESTABLISH A WILDLIFE PRESERVE AND BIRD SANCTUARY IN CAPE COLONY SUBDIVISION, CHOWAN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. A wildlife preserve and bird sanctuary is established in the Cape Colony Subdivision, Chowan County. The preserve and sanctuary embrace all of the lands described as follows:

"BEGINNING at an iron pipe in the Western boundary of N.C. Hwy 32 Alt. where the land of W. D. Pruden and this tract of land join; thence S. 47 deg 15' W. along the W. D. Pruden line 3453.2 feet to a pipe in the Eastern boundary of the Norfolk and Southern Railroad; thence along the eastern boundary of the Norfolk & Southern R.R. S. 22 deg. 17' E. a distance of approximately 1360 feet to a small canal; thence in a Southwesterly direction along the canal to the Albemarle Sound. Thence along the shore of the Albemarle Sound in a Southeasterly direction to the right of way of the Norfolk & Southern R.R.; thence following the right of way of said railroad along a curve in a Northwesterly direction to the eastern right of way of SR 1120 (Also known as Montpelier Drive); thence along the eastern right of way of SR 1120 in a Northeasterly direction to the western right of way of Hwy 32 Alternate; thence along the western right of way of Hwy 32 Alt. in a North-westerly direction to the point and place of beginning."

Sec. 2. It is the intent of this act to establish a wildlife preserve and bird sanctuary for the preservation and protection of all animals and birds in Cape Colony Subdivision. It is also the intent of this act to prevent the hazards caused by firing weapons in the Cape Colony Subdivision.

Sec. 3. The Cape Colony Property Owners Association is authorized to contract with the Department of Transportation for the erection and maintenance of signs, at all major entrances to Cape Colony Subdivision, stating that the area is a wildlife preserve and a bird sanctuary.

Sec. 4. (a) It is unlawful to trap, hunt, shoot or otherwise kill within the sanctuary and preserve established by this act any bird or animal.

(b) It is unlawful to discharge, fire or shoot a firearm, pistol, rifle or shotgun except for self protection within the sanctuary and preserve established by this act.

(c) Violation of this section is a misdemeanor punishable by imprisonment for not more than 30 days, or by a fine of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00).

Sec. 5. The provisions of this act are enforceable by officers of the Wildlife Resources Commission, the Highway Patrol, the officers of the

Chowan County Sheriff's Department and any other State and county officers who have the power of arrest.

Sec. 6. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1983.

S. B. 182 CHAPTER 168

AN ACT TO AMEND THE NORTH CAROLINA PARKING FACILITIES REVENUE BOND ACT.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 858, Session Laws of 1975 is rewritten to read:

"Section 1. Short title. This act shall be known and may be cited as the North Carolina Parking Facilities and Project Revenue Bond Act."

Sec. 2. Section 2 of Chapter 858, Session Laws of 1975 is rewritten to read:

"Sec. 2. Purpose. The purpose of this act is to authorize the financing of parking facilities and certain projects for State agencies in order to provide parking facilities for the public, including, without limitation, visitors to State agencies and State employees, and to provide for storage for existing facilities."

Sec. 3. Subdivisions (3) and (5) of Section 3 of Chapter 858, Session Laws of 1975 are rewritten to read:

"(3) 'Parking facilities' or 'Project' shall mean any facility or facilities operated by or on behalf of the Department of Administration which require or requires parking and/or storage of vehicles, equipment, personalty and items necessary to the operation of the facility and without limitation shall include all real and personal property, driveways, roads, approaches, structures, garages, meters, mechanical equipment and all appurtenances and facilities, either at, above, or below ground level, inside or outside, which are used or usable in connection with the operation of the facility or facilities."

"(5) 'Revenues' shall mean and include all or any part of the fees, rents, charges and other income derived from and/or in connection with the operation and/or ownership of this project or parking facilities heretofore or hereafter financed under this act and any other project or parking facilities whether existing or hereafter acquired or constructed."

Sec. 4. The first paragraph of Section 5 of Chapter 858, Session Laws of 1975 is amended to read as follows:

"Sec. 5. Issuance of revenue bonds. The total self-liquidating portion of each project shall not exceed two million three hundred thousand dollars ($2,300,000)."

Sec. 5. The second paragraph of Section 5 of Chapter 858, Session Laws of 1975 is amended by inserting after the close quotation marks the following new language: "or 'State of North Carolina Parking Facilities and Project Revenue Bonds'".

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1983.

S. B. 204 **CHAPTER 169**

AN ACT TO PERMIT PERSONS TO ENGAGE IN BUSINESS AS A PAWNBROKER IN UNINCORPORATED AREAS OF JACKSON AND LENOIR COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 1155, Session Laws of 1957, as amended by Chapter 768, Session Laws of 1967, is further amended by adding the following new sentence at the end:

"Sections 1 and 2 of this act also apply to Jackson and Lenoir Counties."

Sec. 2. G.S. 91-4 is amended in the second sentence of the last paragraph by deleting "and the chief of police" and inserting in lieu thereof "and, if the pawnshop is located in an incorporated city or town, in the office of the chief of police".

Sec. 3. This act applies to Jackson and Lenoir Counties only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1983.

H. B. 66 **CHAPTER 170**

AN ACT TO REVISE AND SIMPLIFY G.S. 8-57 REGARDING THE TESTIMONY OF SPOUSES IN CRIMINAL ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 8-57 is rewritten to read as follows:

"§ 8-57. *Husband and wife as witnesses in criminal actions.*—(a) The spouse of the defendant shall be a competent witness for the defendant in all criminal actions, but the failure of the defendant to call such spouse as a witness shall not be used against him. Such spouse is subject to cross-examination as are other witnesses.

(b) The spouse of the defendant shall be competent but not compellable to testify for the State against the defendant, except that the spouse of the defendant shall be both competent and compellable to so testify:

(1) In a prosecution for bigamy or criminal cohabitation, to prove the fact of marriage and facts tending to show the absence of divorce or annulment;

(2) In a prosecution for assaulting or communicating a threat to the other spouse;

(3) In a prosecution for trespass in or upon the separate lands or residence of the other spouse when living separate and apart from each other by mutual consent or court order;

(4) In a prosecution for abandonment of or failure to provide support for the other spouse or their child;

(5) In a prosecution of one spouse for any other criminal offense against the minor child of either spouse, including any illegitimate or adopted or foster child of either spouse.

(c) No husband or wife shall be compellable in any event to disclose any confidential communication made by one to the other during their marriage."

Sec. 2. This act shall become effective October 1, 1983, and shall apply to all criminal prosecutions instituted after that date.

In the General Assembly read three times and ratified, this the 13th day of April, 1983.

H. B. 221 CHAPTER 171

AN ACT TO ALLOW THE COASTAL RESOURCES COMMISSION TO ISSUE GENERAL PERMITS UNDER THE COASTAL AREA MANAGEMENT ACT AND UNDER THE DREDGE AND FILL LAW.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Chapter 113A of the General Statutes G.S. 113A-118.1 to read:

"§ 113A-118.1. *General permits.*—(a) The Commission may, by rule, designate certain classes of major and minor development for which a general or blanket permit may be issued. In developing these rules, the Commission shall consider:

(1) The size of the development;

(2) The impact of the development on areas of environmental concern;

(3) How often the class of development is carried out;

(4) The need for on-site oversight of the development; and

(5) The need for public review and comment on individual development projects.

(b) General permits may be issued by the Commission as rules under the provisions of G.S. 113A-107. Individual developments carried out under the provisions of general permits shall not be subject to the mandatory notice provisions of G.S. 113A-119."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1983.

H. B. 229 CHAPTER 172

AN ACT TO DECREASE THE TIME ALLOTTED FOR THE CONSIDERATION OF PERMITS UNDER THE COASTAL AREA MANAGEMENT ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-121(c) is amended by rewriting the first sentence to read:

"(c) Failure of the Secretary or the designated local official (as the case may be) to approve or deny an application for a minor permit within 25 days from receipt of application shall be treated as approval of the application, except that the Secretary or the designated local official (as the case may be) may extend the deadline by not more than an additional 25 days in exceptional cases."

Sec. 2. G.S. 113A-122(c) is amended to read:

"(c) Failure of the Commission to approve or deny an application for a permit pursuant to this section within 75 days from receipt of application shall be treated as approval of the application, except the Commission may extend the deadline by not more than an additional 75 days in exceptional cases.

Failure of the Commission to dispose of an appeal pursuant to this section within 90 days from notice of appeal shall be treated as approval of the action appealed from, except that the Commission may extend the deadline by not more than an additional 90 days if necessary to properly consider the appeal."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1983.

H. B. 231 CHAPTER 173

AN ACT TO PROVIDE FOR THE ISSUANCE OF SPECIAL EMERGENCY PERMITS UNDER THE COASTAL AREA MANAGEMENT ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-118 is amended by adding a new subsection to read:

"(f) The Secretary of the Department of Natural Resources and Community Development may issue special emergency permits under this Article. These permits may only be issued in those extraordinary situations in which life or structural property is in imminent danger as a result of storms, sudden failure of man-made structures, or similar occurrence. These permits may carry any conditions necessary to protect the public interest, consistent with the emergency situation and the impact of the proposed development. If an application for an emergency permit includes work beyond that necessary to reduce imminent dangers to life or property, the emergency permit shall be limited to that development reasonably necessary to reduce the imminent danger; all further development shall be considered under ordinary permit procedures. This emergency permit authority of the Secretary shall extend to all development in areas of environmental concern, whether major or minor development, and the mandatory notice provisions of G.S. 113A-119(b) shall not apply to these emergency permits. To the extent feasible, these emergency permits shall be coordinated with any emergency permits required under G.S. 113-229(el)."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1983.

H. B. 734 CHAPTER 174

AN ACT TO CHANGE THE MANNER OF ELECTION OF THE NEW BERN BOARD OF ALDERMEN AND MAYOR.

The General Assembly of North Carolina enacts:

Section 1. (a) The Mayor and Board of Aldermen of the City of New Bern shall be elected on a nonpartisan basis by the qualified voters of the town, and the results determined by the plurality method under G.S. 163-292.

(b) The five members of the Board of Aldermen shall be elected at large.

Sec. 2. (a) The Mayor of the City of New Bern shall be elected by the qualified voters of the town on a nonpartisan basis, and the results determined by election and run-off election method under G.S. 163-293.

(b) The five members of the Board of Aldermen of the City of New Bern shall be elected one from each ward, the qualified voters of the ward shall elect the member of the Board of Aldermen from that ward, and the candidate and member must reside in the ward.

(c) The election for Board of Aldermen shall be conducted by the nonpartisan election and run-off election method, and the results determined under G.S. 163-293.

Sec. 3. The Craven County Board of Elections shall hold a special election on June 14, 1983, at which time the qualified voters of the City of New Bern shall vote on the following questions with the first question being question "A", and the second question being question "B":

"☐ FOR election of the Board of Aldermen by an at-large system, and by the nonpartisan plurality method.

☐ FOR election of Board of Aldermen by a system in which each member of the Board of Aldermen will be elected by the registered voters of the ward in which he or she resides, and by the nonpartisan election and run-off election method."

If a majority of the votes cast are in favor of question A. then Section 1 of this act shall become effective beginning with the 1983 election. Otherwise, Section 1 of this act shall have no effect.

If a majority of the votes cast are in favor of question B. then Section 2 of this act shall become effective beginning with the 1983 election. Otherwise, Section 2 of this act shall have no effect.

Sec. 4. Section 3 of this act is effective upon ratification. Sections 1 and 2 of this act shall become effective as prescribed in Section 3 of this act.

In the General Assembly read three times and ratified, this the 13th day of April, 1983.

H. B. 146 CHAPTER 175

AN ACT TO CLARIFY AGE LIMITS SET BY VARIOUS CRIMINAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-12.7 is amended by deleting the phrase "over 16" and substituting the phrase "at least 16".

Sec. 2. G.S. 14-12.9 is amended by deleting the phrase "over 16" and substituting the phrase "at least 16".

Sec. 3. G.S. 14-12.10 is amended by deleting the phrase "over 16" and substituting the phrase "at least 16".

Sec. 4. G.S. 14-27.2(a)(1) is rewritten to read:

"(1) With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or".

Sec. 5. G.S. 14-27.4(a)(1) is rewritten to read:

"(1) With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or".

Sec. 6. G.S. 14-33(b)(2) is rewritten to read:

"(2) Assaults a female, he being a male person at least 18 years of age; or".

Sec. 7. G.S. 14-190.8 is amended by deleting the catch line and substituting: "Dissemination to minors under the age of 13 years." and by deleting the phrase "12 years of age or younger" and substituting the phrase "under the age of 13 years".

Sec. 8. G.S. 14-316.1 is amended by deleting the phrase "over 16 years of age" and substituting "who is at least 16 years old".

Sec. 9. G.S. 14-318 is amended by deleting the phrase "of the age of seven years or less" and substituting the phrase "under the age of eight years".

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 439 CHAPTER 176

AN ACT TO PROVIDE THAT AS TO THE CITY OF GASTONIA, MEMBERS OF THE CITY COUNCIL EXCUSED FROM VOTING SHALL NOT BE INCLUDED IN DETERMINING THE RESULTS OF A VOTE ON A ZONING PROTEST PETITION.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 160A-385 is amended by adding immediately before the period the words "not excused from voting".

Sec. 2. This act applies to the City of Gastonia only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 442 CHAPTER 177

AN ACT TO CLARIFY THE BOARD OF LAW EXAMINERS' AUTHORITY REGARDING FINGERPRINTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 84-24 is hereby amended by adding a new paragraph after the fifth unnumbered paragraph to read as follows:

"All applicants for admission to the bar shall be fingerprinted to determine whether the applicant has a record of criminal conviction in this State or in any other state or jurisdiction. The information obtained as a result of the fingerprinting of an applicant shall be limited to the official use of the Board of Law Examiners in determining the character and general fitness of the applicant."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 483 CHAPTER 178

AN ACT TO ALLOW THE LINCOLN COUNTY BOARD OF EDUCATION TO PAY ITS TEN-MONTH EMPLOYEES ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Chapter 115C of the General Statutes, the Lincoln County Board of Education may pay employees who are employed on a ten-month basis on or before the fifteenth day of each month during which they are employed.

Sec. 2. This act shall not be construed to authorize prepayment of any employees by the Lincoln County Board of Education.

Sec. 3. This act is effective July 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 501 CHAPTER 179

AN ACT TO CONFORM THE ELECTION REQUIREMENTS FOR THE LINCOLN COUNTY BOARD OF EDUCATION TO THE GENERAL ELECTION LAW.

The General Assembly of North Carolina enacts:

Section 1. The second paragraph of Section 5 of Chapter 876, Session Laws of 1973, is amended by deleting the words "by noon on or before the sixth Saturday before the date on which the primary is to be held", and inserting in lieu thereof, "during the period prescribed by G.S. 163-106(c)".

Sec. 2. This act shall become effective beginning with the 1984 primary and election.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 532 CHAPTER 180

AN ACT TO MAKE AMENDMENTS TO THE HIGH POINT CAREER SERVICE LAW.

The General Assembly of North Carolina enacts:

Section 1. Sections 5.1 through 5.3 of the Charter of the City of High Point, being Chapter 501, Session Laws of 1979, are rewritten to read:

"Sec. 5.1. Composition of Commission. There shall be established a Career Service Commission which shall consist of five members. The members shall be appointed by the Council of the City of High Point. One member shall be appointed to a term of one year. Two members shall be appointed for a term of two years. Two members shall be appointed for a term of three years. Thereafter, members shall be appointed for three-year terms. A chairman and other officers deemed necessary shall be selected annually by the members of the commission. A member shall not be able to succeed himself more than one time unless the appointment is for less than a complete term. A member can be removed by the council prior to the expiration of his term only for cause. Membership of the Career Service Commission shall consist of qualified voters of the City of High Point.

Sec. 5.2. Employee Representation on the Commission. The Career Service Commission shall provide for two employee members in any event in which the commission shall assume the role of an administrative hearing board as defined in Section 5.3(b). Employees shall be selected in an objective and impartial manner by the members of the Commission to the extent that any appellant shall have peer representation on the hearing board, and that no member of the appellant's department shall sit on the hearing board at the time the appellant's hearing is being conducted. The employee peer representative shall not be more than one salary range above or below the salary range of the appellant. The appellant or the city shall have the right to challenge for cause the peer representatives chosen by the commission for reasons satisfactory to the chairman of the commission.

Sec. 5.3. Function of Commission. (a) The Career Service Commission shall serve as an administrative hearing board as well as an advisory board to the City Manager and personnel director in matters relating to personnel administration of the city. The personnel director shall provide staff assistance as needed. The Career Service Commission may make recommendations to the personnel director and the City Manager as it relates to Section 5.3(c).

(b) The Career Service Commission shall serve as an administrative hearing board in the event any permanent employee who has completed his or her initial probationary period is suspended, demoted or dismissed from the city service. The commission shall act as a hearing board only at the request of the suspended, demoted or dismissed employee. Such request shall be submitted in writing within 10 working days of the date of the action being appealed. Any suspended, demoted or dismissed employee shall have the right to appeal directly to the City Manager, provided such appeal shall be requested in writing within 10 working days of the date of the action being appealed, and further that such request shall waive the right to appeal to the Career Service Commission. Hearings before the City Manager shall be administrative in nature and shall be conducted in closed session. Both the employee and the City Manager may have any person of his choice available to represent him. Hearings before the Career Service Commission shall be administrative in nature and shall be conducted in closed session, unless an open session is requested by the employee. Both the employee and the appointing authority may have any person of his choice available to represent him. In this capacity, the Career Service Commission or the City Manager, as the case may be, shall gather facts through written and oral testimony from the employee and the appointing authority and/or witnesses for the employee and the appointing authority; determine facts derived from such written and oral testimony; and submit finding or facts and final conclusions in writing to the employee and/or the City Manager within 10 working days from the date of the hearing. For the purpose of conducting a hearing, the City Manager or the Career Service Commission, as the case may be, shall have the power to subpoena witnesses necessary to the efficient conduct of the hearing. The decision of the City Manager or the Career Service Commission, as the case may be, shall be final.

(c) The Career Service Commission shall have the authority, as deemed necessary to review and make recommendations on matters relating to personnel administration. These matters shall include but not be limited to: procedures for recruitment and selection of candidates; maintenance of the city's classification plan; affirmative action programs; performance appraisal systems; fringe benefit programs; employer-employee relations programs; and training and safety programs."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

S. B. 94 CHAPTER 181

AN ACT TO PLACE A MAGISTRATE ON THE COURTS COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-506 is amended by deleting the last two sentences of the second paragraph.

Sec. 2. G.S. 7A-506 is further amended by adding a third paragraph to the end to read:

"Effective July 1, 1983, the membership of the Commission is increased to 24 members. The Governor shall appoint one additional voting member, who shall be a magistrate, to serve a two-year term. A vacancy in an additional voting membership pursuant to this section shall be filled for the unexpired term by the appointing authority who made the original appointment. An additional voting member whose term expires may be reappointed."

Sec. 3. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

S. B. 183 CHAPTER 182

AN ACT TO ALLOW FORSYTH COUNTY TO DELEGATE THE AUTHORITY TO MAKE CERTAIN RELEASES AND REFUNDS OF PROPERTY TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 1154 of the 1981 Session Laws (Regular Session, 1982) is amended by inserting between the words "County" and "only" the phrase "and Forsyth County".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

S. B. 186 CHAPTER 183

AN ACT TO AMEND THE FEES CHARGED BY THE NORTH CAROLINA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 89C-14(b) is amended by deleting "amounts not to exceed seventy dollars ($70.00) for an engineer or seventy dollars ($70.00) for registration as a land surveyor" and substituting "an amount not to exceed one hundred dollars ($100.00)".

Sec. 2. The second sentence of G.S. 89C-14(e) is amended by deleting "provided the charge of any reexamination shall not exceed thirty dollars ($30.00)".

Sec. 3. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

S. B. 214 CHAPTER 184

AN ACT TO REPEAL OBSOLETE LOCAL ACTS RELATING TO PAY OF OFFICIALS OF FRANKLIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 918, Session Laws of 1961 is repealed.

Sec. 2. Chapter 1203, Session Laws of 1963 is repealed.

Sec. 3. Chapters 509 and 510, Session Laws of 1969 are repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 151 CHAPTER 185

AN ACT TO AMEND THE STATUTES RELATING TO PUBLIC ACCOUNTANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93-1(a)(3) is amended by deleting the words "engaged in the practice of accountancy".

Sec. 2. G.S. 93-1(a)(5) is amended in line two by inserting the words "a certified public accountant or" between the words "as" and "an accountant".

Sec. 3. G.S. 93-8 is rewritten to read:

"It shall be unlawful for any certified public accountant to engage in the public practice of accountancy in this State through any corporate form, except as provided in General Statutes Chapter 55B."

Sec. 4. The second paragraph of G.S. 93-12(5) is rewritten to read:

"From and after July 1, 1961, any person shall be eligible to take the examination given by the Board, or to receive a certificate of qualification to practice as a certified public accountant, who is a citizen of the United States or has declared his intention of becoming a citizen or is a resident alien, and has been domiciled in or resided for at least four months within the State of North Carolina immediately prior to the filing of an application to take the examination or to receive a certificate of qualification, is 18 years of age or over, and is of good moral character, and submits evidence satisfactory to the Board that:".

Sec. 5. Lines 37 through 41 of G.S. 93-12(5) in the 1981 Supplement to Volume 2C of the General Statutes are rewritten to read:

"Such applicant, in addition to passing the examination given by the Board, shall have the endorsement as to his eligibility of three certified public accountants who currently hold licenses in any state or territory of the United States or the District of Columbia and shall have had either:

a. Two years experience in the field of accounting under the direct supervision of a certified public accountant who currently holds a valid license in any state or territory of the United States or the District of Columbia, or".

Sec. 6. The first sentence of G.S. 93-12(9) is amended by deleting the words "engaged in the public practice of accountancy".

Sec. 7. The first sentence of G.S. 93-12(7) is rewritten to read: "To charge for each examination provided for in this Chapter a fee not exceeding one hundred twenty-five dollars ($125.00)."

Sec. 8. G.S. 93-12 is amended by adding a new subdivision to read:

"(7a) To charge for each initial certificate of qualification provided for in this Chapter a fee not exceeding seventy-five dollars ($75.00)."

Sec. 9. G.S. 93-12(8) is renumbered as G.S. 93-12(7b) and rewritten to read:

"(7b) To require the renewal of all certificates of qualification annually on the first day of July, and to charge an annual renewal fee not to exceed fifty dollars ($50.00)."

Sec. 10. G.S. 93-12(9) is amended by adding after the words "to censure the holder of any such certificate" the words: "or to assess a civil penalty not to exceed one thousand dollars ($1,000)".

Sec. 11. Amend G.S. 93-12(9) by adding a sentence at the end thereof to read:

"Any civil penalty assessed under this section shall be collected by the Board and transferred to the State Treasurer for use in the General Fund."

Sec. 12. G.S. 93-13 is amended by deleting "fifty dollars ($50.00)" and substituting "one hundred dollars ($100.00)" and further by deleting "two hundred dollars ($200.00)" and substituting "one thousand dollars ($1,000)".

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 348 CHAPTER 186

AN ACT TO ADD NEW HANOVER AND DURHAM COUNTIES TO THE PROVISIONS OF THE GENERAL STATUTES RELATING TO ATTACHMENT OR GARNISHMENT AND LIEN FOR AMBULANCE SERVICE IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44-51.8 is amended by adding the words "New Hanover," after the word "Nash," and before the word "Onslow", and it is further amended by adding immediately after the word "Davie,", the word "Durham,".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 378 CHAPTER 187

AN ACT VALIDATING CERTAIN ASSESSMENTS OF THE CITY OF ELIZABETH CITY.

Whereas, the City of Elizabeth City, acting under Article 10 of Chapter 160A of the North Carolina General Statutes, has heretofore caused water and/or sewage line extensions to be constructed and placed in three areas of the City of Elizabeth City known as Winslow Acres Area, Rosewood Park Area and Brookridge Terrace Area annexed by the City of Elizabeth City on December 1, 1979; and

Whereas, after two public hearings provided to each area concerning the preliminary assessment roll for each area and the proposed assessment of benefits to the respective property owners within each area for the said improvements constructed, the City Council of the City of Elizabeth City did

confirm the assessment roll for each area by resolution adopted August 30, 1982; and

Whereas, certain defects and technical irregularities have been suggested in the procedure and steps followed by the City of Elizabeth City in proposing and constructing said improvements and in adopting the assessment roll for each area in which said improvements have been constructed; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Any and all acts heretofore done and steps taken by the City of Elizabeth City and its City Council in proposing and constructing water or sewage line extensions in the Winslow Acre Area, Rosewood Park Area and Brookridge Terrace Area annexed by the City of Elizabeth City on December 1, 1979; and in levying assessments therefor are hereby in all respects approved and validated. All proceedings heretofore taken by the City of Elizabeth City and its City Council for the levying of said special assessments are hereby legalized and validated.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 428 CHAPTER 188

AN ACT TO PERMIT ALL INCORPORATED CITIES AND TOWNS OTHER THAN THE CITY OF DURHAM TO LEVY AUTO TAXES OF NOT MORE THAN FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a) is rewritten to read:

"(a) All taxes levied under the provisions of this Article are intended as compensatory taxes for the use and privileges of the public highways of this State, and shall be paid by the Commissioner to the State Treasurer, to be credited by him to the State Highway Fund; and no county or municipality shall levy any license or privilege tax upon any motor vehicle licensed by the State of North Carolina, except that cities and towns other than the City of Durham may levy not more than five dollars ($5.00) per year upon any vehicle resident therein, and except that the City of Durham may levy not more than one dollar ($1.00) per year upon any vehicle resident therein. Provided, further, that cities and towns may levy, in addition to the amounts hereinabove provided for, a sum not to exceed fifteen dollars ($15.00) per year upon each vehicle operated in such city or town as a taxicab."

Sec. 2. G.S. 20-97(a1), G.S. 20-97(a2), G.S. 20-97(a3), G.S. 20-97(a4), and G.S. 20-97(a5) are repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 462 **CHAPTER 189**

AN ACT TO ALLOW MECKLENBURG COUNTY TO INCLUDE STORM DRAINAGE REPAIRS AND IMPROVEMENTS AND STREET LIGHTING AS SPECIAL ASSESSMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-185 is amended by adding after subdivision (4) the following new subdivisions:

"; (5) Constructing, reconstructing, extending, and otherwise building or improving storm sewer and drainage systems; provided that no assessment may be made under this subdivision unless the county, before adoption of the preliminary assessment resolution under G.S. 153A-190, has received a petition requesting the construction, reconstruction, extension, building, or improving, signed by at least seventy-five percent (75%) of the owners of property to be assessed; (6) Installing, erecting and operating street lighting on residential, commercial and industrial streets; provided that no assessment may be made under this subdivision unless the county, before adoption of the preliminary assessment resolution under G.S. 153A-190, has received a petition requesting the installation, erection, or operation, signed by at least seventy-five percent (75%) of the owners of property to be assessed."

Sec. 2. For storm sewer and drainage system projects, and street lighting projects, any basis for making assessments specified in G.S. 153A-186(a) or (b) may be used.

Sec. 3. This act shall apply to Mecklenburg County only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 482 **CHAPTER 190**

AN ACT TO COMPLY WITH THE HIGHWAY FEDERAL-AID REQUIREMENTS FOR PROOF OF PAYMENT OF THE FEDERAL TAX BEFORE ISSUING A STATE TRUCK LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Section 88 of Chapter 20 of the North Carolina General Statutes is amended by adding a new section to be numbered (i) and to read as follows:

"(i) No heavy vehicle subject to the use tax imposed by Section 4481 of the Internal Revenue Code of 1954 (26 USC 4481) may be registered or licensed pursuant to G.S. 20-88 without proof of payment of the use tax imposed by that law. The proof of payment shall be on a form prescribed by the United States Secretary of Treasury pursuant to the provisions of 23 USC 141 (d)."

Sec. 2. This act shall become effective October 1, 1984.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 629 **CHAPTER 191**

AN ACT TO INCORPORATE THE CITY OF KANNAPOLIS SUBJECT TO A VOTE OF THE PEOPLE AND TO CREATE A COMMISSION TO DEVELOP ITS CHARTER.

The General Assembly of North Carolina enacts:

Section 1. The inhabitants of the City of Kannapolis are incorporated a body corporate and politic under the name of the "City of Kannapolis", subject to the provisions of this act and a referendum of its qualified voters as provided in Section 11 of this act. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

Sec. 2. Charter Commission Created. There is hereby created The Kannapolis Charter Commission. The Commission shall:

(1) Prepare a charter for the City of Kannapolis, which shall:

a. Provide that the City of Kannapolis has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

b. Establish the City's boundaries, which shall be those established in accord with Section 11 of this act and shall continue until changed in accord with law.

c. Determine the term of office and the manner of electing the Mayor and the members of the City's governing board, and the number of council members, all within the limits set forth in G.S. Chapter 160A, Article 5, Part 4.

d. Determine whether the City shall operate under the council-manager plan as provided in G.S. Chapter 169A, Article 7, Part 2, or under the mayor-council plan as provided in G.S. Chapter 160A, Article 7, Part 3.

(2) Prepare a report setting forth the Commission's evaluation of the effect of incorporation on the citizens of the Kannapolis area if the voters should approve its incorporation, and more specifically:

a. Set forth its recommendations for the initial level and plan of municipal services to be provided by the City of Kannapolis upon incorporation and how those services would be financed.

b. Outline its recommendations for providing each major municipal service, which might include either providing the service by force account or by contract with other public bodies or private agencies.

c. Include any recommendations for additional charter provisions or special legislation that the City of Kannapolis should seek through enactment by the 1985 General Assembly and that the Commission deems necessary or desirable to meet special needs of or conditions within the City.

(3) Provide for the dissemination of its report and the proposed charter to the citizens of the Kannapolis area.

Sec. 3. Commission Membership. (a) The Kannapolis Charter Commission is composed of 14 members living within the Kannapolis boundaries, and appointed as follows:

(1) The Cabarrus County Commissioners shall appoint 1 member.

(2) The Rowan County Commissioners shall appoint 1 member.

(3) The Chairman of the Board of Cannon Mills Company shall appoint 1 member.

(4) The Kannapolis City Board of Education shall appoint 1 member.

(5) The Kannapolis Sanitary District shall appoint 1 member.

(6) The Royal Oaks Sanitary District shall appoint 1 member.

(7) The Board of Directors of the Enochville Volunteer Fire and Rescue shall appoint 1 member.

(8) The current Task Force by majority vote, shall elect an equal number to serve on the commission (not less than 7).

(b) If any appointing authority shall fail to act not later than 30 days after enactment of this bill to make the appointments required by subdivisions (1) through (7) of subsection (a) of this section, then the Charter Commission members shall elect representatives to fill the vacant position(s).

(c) Any vacancy shall be filled by the individual or board making the original appointment within 30 days of notification by the Charter Commission of an existing vacancy. Should any vacancy not be filled within this time, the Charter Commission shall then fill the vacancy.

Sec. 4. Organization of the Commission. (a) The Commission shall select from its membership a chairman, a vice-chairman, a recording secretary and such other officers as it may deem necessary. The Commission shall adopt rules of procedure not inconsistent with this act.

(b) The Commission may appoint special committees to assist in carrying out its duties. Persons who are not members of the Commission may be appointed to said committees.

(c) The Chairman of the Kannapolis Sanitary District Board or his designee who is a resident of Cabarrus or Rowan County living within the boundaries of the City of Kannapolis shall call the organizational meeting of the Commission and preside until the Commission elects its chairman, vice-chairman, recording secretary and other officers it deems necessary. The organizational meeting shall be held within 30 days after passage of this act and shall be held between 10 and 30 days of its call.

Sec. 5. Meetings of the Commission. All meetings of the Commission shall be open to the public as provided in Article 33C of Chapter 143 of the General Statutes (the Open Meeting Law). The Commission shall adopt a schedule of regular meetings and may hold special meetings upon reasonable notice to all members.

Sec. 6. Staff of the Commission. The Commission may contract with State and local government agencies and other institutions, persons, firms, or corporations to make special studies and to assist in its work.

Sec. 7. Financing of the Commission. (a) The Commission shall prepare a budget to support its request for funds to carry out its work, not to exceed a total of thirty thousand dollars ($30,000).

(b) The Commission shall make its requests for funds to the boards of commissioners of Cabarrus and Rowan Counties. Of the funds requested, 67 percent shall be provided by Cabarrus County and 33 percent by Rowan County.

(c) If the City of Kannapolis is established as provided in this act, its Council shall appropriate funds not later than June 30, 1987, to reimburse, Cabarrus and Rowan Counties, without interest, for the sums advanced to the Commission.

(d) The Commission's rules shall provide that all funds expended by the Commission shall be in accord with its budget and each disbursement shall be specifically approved by at least one officer and one other Commission member. Cabarrus County, through its Finance Department, shall provide accounting and treasury services for the Commission without compensation. The Commission is not subject to The Local Government Budget and Fiscal Control Act.

(e) The Commission shall submit a final report on its expenditures to the boards of commissioners of Cabarrus and Rowan Counties upon the completion of its work.

Sec. 8. Compensation for Commission Members. Members of the Commission shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

Sec. 9. Cooperation of Local Units of Government with the Commission. All local governmental units and agencies in Cabarrus and Rowan Counties shall cooperate with the Commission by providing records, reports and information upon the Commission's request.

Sec. 10. Schedules of Work and Hearings. The Commission shall publish its preliminary conclusions and findings regarding its proposed charter and other recommendations not later than March 1, 1984. The Commission shall hold at least two public hearings on these preliminary conclusions and recommendations between two and six weeks following publication of the notice. After making any changes deemed necessary following the public hearings, the Commission shall file copies of the final draft of the charter and reports with the clerks to the boards of commissioners of Cabarrus and Rowan Counties and make such other dissemination of the final drafts as it seems appropriate, no later than August 1, 1984.

Sec. 11. Incorporation Referendum. (a) The Cabarrus County Board of Elections, with the assistance of the Rowan County Board of Elections, shall conduct a referendum on the incorporation of Kannapolis as provided in this section on November 6, 1984, at the same time as the regular general elections. The costs of the elections within their respective jurisdictions shall be met by Cabarrus and Rowan Counties.

(b) The referendum on incorporation of the City of Kannapolis shall be conducted in three separate portions of the area proposed to be incorporated, namely: (1) the central area, which includes the Kannapolis Sanitary District and the Cannon Mills Village, (2) the Royal Oaks Sanitary District area, and (3) the Enochville Community area. These three areas are described as follows:

CENTRAL AREA

Being all of the area included within the existing boundaries of the Kannapolis Sanitary District, its annexations and pending annexations, including therein the properties of Cannon Mills Company and others lying within the outer boundaries of the Kannapolis Sanitary District but presently excluded from the Kannapolis Sanitary District, together with various areas lying adjacent to the boundaries of the Kannapolis Sanitary District, this area being more fully described as follows:

BEGINNING at a point in U.S. Highway 29A (North Main Street) where the boundary line of the Kannapolis Sanitary District intersects the center line of U.S. Highway 29A, this point lying 150 feet North, more or less, of the

intersection of Airport Road with U.S. Highway 29A, and runs thence along the existing boundaries of the Kannapolis Sanitary District, its annexations and pending annexations, in a clockwise direction as the boundaries cross Southern Railway, U.S. Highway 29, Ebenezer Road, Moose Road, Lane Street, and to a point on the Old China Grove Road; thence continuing along the Kannapolis Sanitary District boundary line crossing Brantley Road, Midlake Road, Hopedale Street, and continuing to a point in Lindsay Drive, a corner of the Kannapolis Sanitary District; thence along a new line running along an extension of Lindsay Drive in a southeasterly direction to a point in East First Street Extension; thence continuing in a southeasterly direction to a point in the boundary line of the Dixie Park Subdivision, this corner being the northeastern corner of Lot No. 6 of Block 5 of Dixie Park; thence continuing four lines with the lines of the Dixie Park Subdivision (1) southerly to the southeastern corner of Lot 14, Block 9, (2) westerly to the northeastern corner of Lot 57 in Block 10, (3) southerly to the common corner of Lots 44 and 45, Block 10, and (4) in a northwesterly direction to a corner of Lot 6, Block 10, which is the point on the east side of Little Texas Road; thence crossing Little Texas Road and running in a northwesterly direction to an existing corner of the Kannapolis Sanitary District, this point being a corner of Skyland Baptist Church property; thence continuing along the existing line of the Kannapolis Sanitary District in a clockwise direction encompassing areas lying adjacent to Ontario Drive, East First Street, Fairview Street, McLain Road, South Cannon Boulevard (U.S. Highway 29), Centergrove Road, and Little Texas Road, to a point west of Little Texas Road north of the intersection of Valwood Street; thence continuing along the original Sanitary District line and the line of Section 3, Eastway Village Annexation to a point in the Sanitary District line, a corner of Section 3, Eastway Village; thence continuing along the Sanitary District line in a southwesterly direction to a corner of the Sanitary District; thence in a southeasterly direction 265 feet, more or less, to a point; thence in a southeasterly direction to a point in the center of Centergrove Road; thence along the center line of Centergrove Road as it runs in an easterly direction to the intersection of the property line of the Concord Board of Light and Water Commissioners west of Lake Concord; thence along the line of the Board of Light and Water Commissioners as it adjoins Forrestbrook Avenue, Pine Cape Court, and Forrestbrook Subdivision, to a point east of the eastern end of Forrestbrook Lane, a corner of the Forrestbrook Subdivision; thence along four lines of the Forrestbrook Subdivision to a corner of the Forrestbrook Subdivision northwest of the cul-de-sac at the end of Woodwind Court; thence continuing in a northwesterly direction to a point approximately 150 feet south of the intersection of Chambers Avenue and Heritage Court; thence in a westerly direction along a line running along the southern end of the lots fronting on Heritage Court and Windermire Drive and continuing in a westerly direction along said line extended to a point in the boundary line of the Kannapolis Sanitary District, said corner being east of N.C. Highway 136 (Lake Concord Road); thence continuing in a westerly and clockwise direction with the lines of the Kannapolis Sanitary District, crossing Highway 136, U.S. Highway 29, Ridge Avenue, and the Southern Railway, to a point in the center of U.S. Highway 29A (South Main Street); thence a new line in a southerly direction with the center line of South Main Street to a point at the intersection of the center lines of Springway Drive and South Main Street;

thence in a westerly direction with the center line of Springway Drive to a point in the center line of Shady Lane; thence in a northwesterly direction with the center line of Shady Lane to a point at the end of Shady Lane; thence in a southwesterly direction approximately 250 feet to a point; thence in a northwesterly direction crossing a branch to a point in the center of Azalea Avenue at its intersection with the southern edge of Coventry Road; thence with the southern edge of Coventry Road in a westerly direction to a point, said point being the southeastern corner of the Sheffield Subdivision; thence with the line of the Sheffield Subdivision in a westerly direction, said line being approximately 390 feet south of and parallel to Coventry Road, to a point in the center of Oakwood Avenue; thence in a northerly direction with the center line of Oakwood Avenue to a point, said point being 200 feet, more or less, south of the intersection of Sunset Drive; thence in a westerly direction and parallel with Sunset Drive to a point 150 feet west of Independence Square; thence in a northerly direction a line 150 feet west of and parallel to Independence Square to a point in the center of Rogers Lake Road, said point being approximately 150 feet west of the intersection of Independence Square and Rogers Lake Road; thence in a westerly direction with the center of Rogers Lake Road approximately 900 feet to a point in the center of Rogers Lake Road; thence in a northerly direction to a point north of Derbyshire Road; thence in an easterly direction parallel to Derbyshire Road to a point adjacent to the eastern end of Derbyshire Road; thence in a northerly direction to a point, said point being 150 feet west of the southern end of Quailwood Court; thence continuing in a northerly direction parallel to Quailwood Court to a point 150 feet north of the western end of Evergreen Avenue; thence parallel to Evergreen Avenue in a northeasterly direction to a point in the line of the Kannapolis Sanitary District south of Bethpage Road; thence continuing in a clockwise direction with the line of the Kannapolis Sanitary District crossing Bethpage Road and to a point in the center of Mooresville Road; thence a new line in a westerly direction with the center of Mooresville Road, to the center of Buffalo Creek; thence in a northerly direction with the center of Buffalo Creek to a corner of the Kannapolis Sanitary District at the intersection of Buffalo Creek and a branch, south of Rainbow Drive; thence with the boundary line of the Kannapolis Sanitary District as it continues in a clockwise direction, crossing Rainbow Drive, Pine Street and Greenwood Street, to a corner of the Sanitary District in the center line of Buffalo Creek, south of West "C" Street; thence leaving the Sanitary District line and running along a new line along the center line of Buffalo Creek in a northerly direction, crossing West "C" Street, to a point in the dam of Kannapolis Lake; thence continuing through the lake in a line running roughly parallel to the channel of Buffalo Creek, crossing Upper Enochville Road at the bridge, and continuing through the lake to a point at the intersection of Buffalo Creek with the center line of Cannon Farm Road at the bridge; thence with the lines of Kannapolis Golf Course running first along Cannon Farm Road and then continuing along the Golf Course lines in a southeasterly direction to a point at the end of Corriher Street where a line running parrallel to and 150 feet north of Corriher Street would intersect the boundary line of Kannapolis Golf Course; thence along this line running parallel to and 150 feet north of Corriher Street in an easterly direction to a point 150 feet east of West "A" Street; thence in a southerly direction parallel to and 150 feet east of West "A" Street to a point 150 feet north of Darty Street; thence in

an easterly direction parallel with Darty Street to a corner of Kannapolis Sanitary District; thence continuing in a clockwise direction with the lines of the Kannapolis Sanitary District crossing Airport Road to the point of Beginning.

ROYAL OAKS SANITARY DISTRICT AREA

Being that area lying within the boundaries of the Royal Oaks Sanitary District, its annexations and pending annexations, adjacent areas to the east and south of the Sanitary District and described more fully as follows:

BEGINNING at a point where the boundary line of the Royal Oaks Sanitary District intersects the center line of the median between the two lanes of Cannon Boulevard (U.S. Highway 29), this point lying north of Kansas Street, and runs thence along the boundary line of the Royal Oaks Sanitary District in a clockwise and easterly direction to a point where the boundary line of the Sanitary District intersects Lake Concord Road (N.C. Highway 136); thence running with Lake Concord Road south to a point where the existing boundary line of the Sanitary District leaves Lake Concord Road; thence continuing along a new line running along the center line of Lake Concord Road to a point where Lake Concord Road again intersects the boundary line of the Royal Oaks Sanitary District, this point lying northeast of Grove Street; thence along the boundary line of the Royal Oaks Sanitary District as it runs clockwise in a southerly direction to a point in Lake Concord Road; thence in a southerly direction along the center line of Lake Concord Road to a point where the center line of Lake Concord Road intersects the northern right-of-way line of Interstate Highway 85; thence along the right-of-way line of Interstate Highway 85 as it runs first in a westerly direction and then curving in a northerly direction along the Kannapolis exit ramp at the intersection of Cannon Boulevard (U.S. Highway 29-601) to a point where this right-of-way line intersects the center line of the median between the lanes of Cannon Boulevard; thence in a northerly direction along the center line of the median to a point where this center line intersects the boundary line of the Royal Oaks Sanitary District at Three Mile Branch; thence continuing along the line of the Royal Oaks Sanitary District as it runs clockwise in a northerly direction, crossing Dakota Street, and thence easterly along the Sanitary District line to the point of Beginning at Cannon Boulevard.

ENOCHVILLE-WEST KANNAPOLIS AREA

Being that area lying adjacent to the western boundaries of the Kannapolis Sanitary District and Buffalo Creek and being more fully described as follows:

BEGINNING in the center of Mooresville Road at its intersection with Buffalo Creek; thence running with the center line of Mooresville Road in a westerly direction to a point 150 feet east of Tucker Street; thence in a southerly direction parallel to and 150 feet east of Tucker Street to a point near the end of Tucker Street; thence in a westerly direction to a point in a branch west of Tucker Street; thence with the branch in a northerly direction to the center of Mooresville Road; thence with the center of Mooresville Road in an easterly direction to a point in the intersection of Mooresville Road with Charlie Walker Road; thence with the center line of Charlie Walker Road in a northwesterly direction to a point at the intersection of Tuckaseegee Road; thence with the center line of Enochville Avenue in a northerly direction to a point 150 feet north of the intersection of Eagle Street; thence in an easterly direction parallel with Eagle Street to a point east of Spring Garden Avenue;

thence southerly 150 feet north of and parallel to Spring Garden Avenue to a point at the head of a branch between Eagle Street and Woodsdale Drive; thence with the branch in an easterly direction to Kannapolis Lake; thence with the center of Kannapolis Lake to a point on the Kannapolis Lake dam; thence in a southerly direction with the center of Buffalo Creek or with the line of the Kannapolis Sanitary District to the Beginning.

(c) The form of the ballot for the vote in the central area shall be substantially as follows:

☐ FOR incorporation of the City of Kannapolis.

☐ AGAINST incorporation of the City of Kannapolis.

The form of the ballot for the Royal Oaks Sanitary District area shall be substantially as follows:

☐ FOR the inclusion of the Royal Oaks Sanitary District area within an incorporated City of Kannapolis.

☐ AGAINST the inclusion of the Royal Oaks Sanitary District Area within an incorporated City of Kannapolis.

The form of the ballot for the Enochville Community area shall be substantially as follows:

☐ FOR the inclusion of the Enochville Community area within an incorporated City of Kannapolis.

☐ AGAINST the inclusion of the Enochville Community area within an incorporated City of Kannapolis.

Sec. 12. No Annexation Into the Area of Proposed Incorporation. No city, before January 1, 1985, may annex or adopt a resolution of intent with respect to the annexation of any portion of the area described in Section 11 of this act unless such annexation or resolution of intent is conditioned on the failure of the City of Kannapolis to be incorporated pursuant to this act or on the noninclusion of the territory proposed for incorporation by the City of Kannapolis.

Sec. 13. Act Ceases To Be Effective. If the voters in the central area vote against the incorporation of the City of Kannapolis pursuant to the provisions of Section 11 of this act, this act shall cease to be in effect on the date of the certification of the results of the referendum by the Cabarrus and Rowan County boards of elections and the City of Kannapolis is not incorporated.

Sec. 14. City of Kannapolis Established. If the voters in the central area vote for the incorporation of the City of Kannapolis, the new City of Kannapolis is established at noon on December 11, 1984, under the charter prepared by The Kannapolis Charter Commission.

If the voters of the Royal Oaks Sanitary District area vote for inclusion of that area within an incorporated Kannapolis pursuant to the provisions of Section 11 of this act, the Royal Oaks Sanitary district area is included within and is a part of the City of Kannapolis upon its establishment.

If the voters of the Enochville Community area vote for inclusion of that area within an incorporated Kannapolis pursuant to the provisions of Section 11 of this act, the Enochville Community area is included within and is a part of the City of Kannapolis upon its establishment.

Sec. 15. Initial Governing Body. If the City of Kannapolis is incorporated as provided in this act, the Kannapolis Charter Commission shall act as an interim government, with the chairman acting as temporary mayor. The interim government shall serve until their successors are elected and

qualified as provided in the City's charter and the general law at a municipal election to be held not later than June 30, 1985. Vacancies in the initial governing body shall be filled as provided by general law for cities in North Carolina.

Sec. 16. Ordinances and Resolutions to Continue. All ordinances, resolutions, policies and rules of county and sanitary district governments applying within the area of the newly incorporated City of Kannapolis shall continue in full force and effect until modified by the governments establishing them or by the City of Kannapolis as provided by general law.

Sec. 17. Initial Budget. The initial governing body, as soon as feasible after the establishment of the City of Kannapolis, shall adopt a budget for the 1984-85 fiscal year. In adopting the budget the initial governing body need not follow all the procedures and the schedule required by general law, but it shall hold at least one public hearing on its proposed budget before it is adopted. The budget may include the levy of property taxes for the remainder of the 1984-85 fiscal year. If such taxes are levied, they become due and payable as would property taxes levied for the 1985-86 fiscal year.

Sec. 18. Severability. If any provision of this act is held invalid, such invalidity shall not affect other provisions of the act which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 19. Repealer. All laws and clauses of laws public and local in conflict with this act are hereby repealed.

Sec. 20. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. B. 55 CHAPTER 192

AN ACT TO ALLOW THE ORANGE COUNTY BOARD OF ELECTIONS TO ESTABLISH A SECOND OFFICE TO HANDLE ONE-STOP ABSENTEE VOTING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-227.2 is amended by adding a new subsection to read:

"(g) In any case where the county seat of a county, according to the most recent decennial census is not the incorporated municipality with the largest population, and if the voter records are maintained on electronic data processing equipment, then the county board of elections may establish an additional office in the city with the largest population, which shall be considered, along with the main office, as the office of the county board of elections for the purpose of this section if on-line access to the voter records is available from the additional office."

Sec. 2. This act applies to Orange County only.

Sec. 3. This act shall become effective with respect to elections occurring on and after September 1, 1983.

In the General Assembly read three times and ratified, this the 19th day of April, 1983.

S. B. 152 CHAPTER 193

AN ACT TO PROHIBIT CITIES FROM LEVYING A PRIVILEGE LICENSE TAX ON PERSONS ENGAGED IN THE BUSINESS OF PEST CONTROL.

The General Assembly of North Carolina enacts:

Section 1. Article 4C of Chapter 106 is amended by adding a new section to read:

"§ 106-65.40. *City privilege license tax prohibited.*—A city, as defined in G.S. 160A-1(2), may not levy a privilege license tax on persons engaged in a business licensed under this Article."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of April, 1983.

H. B. 362 CHAPTER 194

AN ACT TO AMEND G.S. 75A-5 WITH RESPECT TO TRANSFER OF MOTORBOAT REGISTRATION.

The General Assembly of North Carolina enacts:

Section 1. Subsection (c) of G.S. 75A-5 is hereby amended by rewriting the first sentence thereof to read as follows:

"Should the ownership of a motorboat change, a new application form with a fee of five dollars and fifty cents ($5.50) for a one-year period or by a fee of thirteen dollars ($13.00) for a three-year period shall be filed with the Wildlife Resources Commission and a new certificate bearing the same number shall be awarded the new owner in the manner as provided for in an original award of number."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of April, 1983.

H. B. 432 CHAPTER 195

AN ACT TO CLARIFY A MARRIED WOMAN'S DOMICILE FOR TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-135(13) is amended by adding a new paragraph to read:

"No presumption as to domicile shall exist from the fact of marriage."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1983.

H. B. 440 CHAPTER 196

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE NORTH CAROLINA PHARMACY PRACTICE ACT.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 90-85.3(r) is amended by inserting a colon immediately after the words: "means the responsibility for".

Sec. 2. The second sentence of G.S. 90-85.3(r) is amended by deleting "G.S. 90-59" and substituting: "G.S. 90-85.27 through G.S. 90-85.31".

Sec. 3. The third sentence of G.S. 90-85.3(r) is amended by deleting the word "licensed".

Sec. 4. The third paragraph of G.S. 90-85.7(a) is amended by deleting the year "1981" each time it appears and substituting therefor "1982".

Sec. 5. The first sentence of G.S. 90-85.15(a) is amended by deleting the word "spend" and substituting the word "spent".

Sec. 6. The first sentence of G.S. 90-85.20(a) is amended by deleting "in another jurisdiction of the applicant" and substituting "in another jurisdiction if the applicant".

Sec. 7. The first sentence of G.S. 90-85.20(b) is amended by deleting "pass an examination" and substituting "pass the examination".

Sec. 8. The first sentence of G.S. 90-85.24 is amended by deleting "G.S. 90-64" and substituting "G.S. 90-85.20" and further by deleting: "; for issuing a permit to a physician to conduct a drugstore in a village of not more than 500 inhabitants, ten dollars ($10.00); for the renewal of permit to a physician to conduct a drugstore in a village of not more than 500 inhabitants, five dollars ($5.00)".

Sec. 9. The first sentence of G.S. 90-85.27 is amended by deleting "this Part" and substituting G.S. 90-85.28 through G.S. 90-85.31".

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1983.

H. B. 512 CHAPTER 197

AN ACT RELATING TO USE OF LISTS OF LICENSED DRIVERS FOR JURY DUTY, AND THE NUMBER OF NAMES ON THE JURY LIST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-43.4 is amended by deleting "18 years of age or older" and inserting in lieu thereof "who will be 18 years of age or older as of the first day of January of the following year".

Sec. 1.1. The first sentence of G.S. 20-43.4 is further amended by adding immediately before the period the words ", provided that if an annual jury list is being prepared under G.S. 9-2(a), the list to be provided to the county jury commission shall be provided annually".

Sec. 2. G.S. 9-2(f) is amended by adding immediately after the word "biennium" the words "or, if an annual list is being prepared as requested under subsection (a) of this section the jury list shall contain not less than one and one-quarter times and not more than three times as many names as were drawn for jury duty in all courts in the county during the previous year".

Sec. 3. Section 1 of this act is effective upon ratification. Section 2 of this act is effective beginning with lists prepared for use in 1984.

In the General Assembly read three times and ratified, this the 20th day of April, 1983.

H. B. 529 CHAPTER 198

AN ACT TO ALLOW THE PERSONAL REPRESENTATIVE IN CERTAIN SITUATIONS TO WITHDRAW FROM JOINT BANK DEPOSITS WITHOUT OBTAINING A TAX WAIVER FROM THE SECRETARY OF REVENUE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-24 as the same appears in 1979 Replacement Volume 2D to the General Statutes is amended by inserting the following new sentence between the present first and second sentences of the second paragraph:

"Provided further that where the provisions of G.S. 41-2.1 do apply, in addition to the withdrawal of fifty percent (50%) of such accounts as hereinabove allowed, where such deposits are jointly held by a decedent and spouse with right of survivorship and there has been an appointment by the Clerk in this State of an Administrator or the qualification by an Executor, to the extent the total of any such account did not exceed ten thousand dollars ($10,000) as of the decedent's death, the balance thereof may be released to the personal representative without requiring a tax waiver from the Secretary of Revenue."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1983.

H. B. 332 CHAPTER 199

AN ACT TO REQUIRE REPORTING OF ALL CASES OF ABUSED JUVENILES TO THE DISTRICT ATTORNEY.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 7A-548 is rewritten to read:

"If the Director finds evidence that a juvenile has been abused as defined by G.S. 7A-517(1), he shall immediately make a written report of the findings of his investigation to the district attorney, who shall determine if criminal prosecution is appropriate, and who may request the Director or his designee to appear before a magistrate.

If the Director receives information that a juvenile has been physically harmed in violation of any criminal statute by any person other than the juvenile's parent or other person responsible for his care, he shall make an oral or written report of that information to the district attorney or the district attorney's designee within 24 hours after receipt of the information. The district attorney shall determine whether criminal prosecution is appropriate."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 21st day of April, 1983.

H. B. 375 CHAPTER 200

AN ACT TO REQUIRE THAT ALL VESSELS IN CERTAIN COUNTIES CARRY A PERSONAL FLOTATION DEVICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75A-6(f) is amended by deleting the word "motorboat" both places it appears and substituting in both places the word "vessel".

Sec. 2. This act applies only to the counties of Catawba, Gaston, Iredell, Lincoln, and Mecklenburg.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1983.

H. B. 475 CHAPTER 201

AN ACT TO HAVE DISCOVERY PAPERS FILED WITH CLERK ONLY WHEN USED IN PROCEEDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 5(d) is amended by rewriting the second sentence as follows: "All other papers required to be served upon a party shall be filed with the court either before service or within five days thereafter, except that depositions, interrogatories, requests for documents, and answers and responses to those requests may not be filed unless ordered by the court or until used in the proceeding. The party taking a deposition or obtaining material through discovery is responsible for its preservation and delivery to the court if needed or so ordered."

Sec. 2. G.S. 1A-1, Rule 30(f)(1) is amended by rewriting the second sentence as follows: "He shall then place the deposition in an envelope endorsed with the title of the action and marked 'Deposition of (here insert name of witness)' and shall personally deliver it or mail it by first class mail to the party taking the deposition or his attorney who shall preserve it as the court's copy."

Sec. 3. This act shall become effective October 1, 1983, and applies to depositions taken on or after that date, to interrogatories, requests for documents and answers and responses thereto made on or after that date.

In the General Assembly read three times and ratified, this the 21st day of April, 1983.

H. B. 505 CHAPTER 202

AN ACT TO AMEND THE CHARTER OF THE CITY OF MORGANTON FOR THE PURPOSE OF PERMITTING THE MAYOR TO VOTE ON ALL ISSUES.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Morganton, being Chapter 180, Session Laws of 1975, is amended by rewriting Section 2.15(b) to read:

"(b) The Mayor shall preside at meetings of the Council and shall have all the rights, powers, duties and responsibilities of a member of the Council, including the right to vote on all matters before the Council."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1983.

H. B. 514 CHAPTER 203

AN ACT AUTHORIZING THE DAVIE COUNTY BOARD OF COMMISSIONERS TO CONVEY CERTAIN REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. The Davie County Board of Commissioners is hereby authorized to convey in conjunction with the conveyance of any other real property by good and sufficient deed all its right, title and interest in and to the hereinafter described tract of land located in Davie County, Mocksville Township, North Carolina, to such person or persons as the Board in its discretion may determine at a private sale with or without monetary consideration; said property shall be used only for the construction of a medical office building for medical professionals who customarily use the facilities of the Davie County Hospital and use of said land shall be restricted to such purpose in the deed of conveyance:

BEGINNING at a point, an iron pin, the Easternmost corner of a certain .34 of an acre tract described in Chapter 272 of the 1979 Session Laws of North Carolina, being the Northernmost corner in the West right of way of Meroney Street in the Town of Mocksville of the within described tract, runs thence with the said right of way South 40 degs. 43 min. 39 sec. East 45.41 feet to a point, an iron pin in the North edge of a proposed street or road leading to Davie County Hospital; thence with said proposed street or road South 52 degs. 32 min. 47 sec. West 61.01 feet to an iron pin and South 51 degs. 49 min. 25 sec. West 42.43 feet to a point, an iron pin, in the North edge of said proposed street or road; thence North 36 degs. 13 min. 03 sec. West 42.24 feet to a point, Southernmost corner of said .34 of an acre tract; thence with the line of said tract North 50 degs. 27 min. 27 sec. East 100 feet to the BEGINNING, containing .102 of an acre, more or less, as taken from a plat prepared by Grady L. Tutterow, Registered Surveyor, dated March 2, 1983.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1983.

H. B. 528 CHAPTER 204

AN ACT TO AMEND THE ESCHEAT AND ABANDONED PROPERTY LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116B-17(a) is rewritten to read:

"(a) Dissolution. All property distributable in the course of a voluntary or involuntary dissolution of a business association, financial institution, insurer or utility shall be presumed abandoned on the date of final dissolution. Prior to the dissolution being final, notice shall be given to all owners in the manner set forth in G.S. 116B-28(c) through (f). The notice shall contain, in lieu of the statement required by G.S. 116B-28(c)(3), a statement that if satisfactory proof of claim is not presented by an owner to a holder within 90 days, the property will be placed in the custody of the State Treasurer, to whom all further claims

shall be directed. The date of final dissolution shall be no sooner than 90 days after the last notice has been mailed."

Sec. 2. G.S. 116B-21(a) is rewritten to read:

"(a) Property. All property, not otherwise covered in this Chapter, held in the ordinary course of the holder's business, including accounts payable and other obligations of any type, shall be presumed abandoned if it has not been claimed within five years after becoming payable or distributable. Any holder who has property in this category with a value of one hundred dollars ($100.00) or less in a single reporting year, shall not be required to report the property in that year, but shall report the property in any year when the value or aggregate value exceeds one hundred dollars ($100.00)."

Sec. 3. G.S. 116B-29 is amended by adding a new subsection to read:

"(f) Negative Report. If a holder receives a report form from the State Treasurer and holds no abandoned property, then a negative report must be filed."

Sec. 4. The first sentence of G.S. 116B-30(a) is amended by deleting ", and there shall be delivered to each clerk of the superior court prior to September 1 a list prepared by the Commissioner of Insurance of escheated and abandoned property reported to him," and substituting "and the Commissioner of Insurance".

Sec. 5. G.S. 116B-30(b) is amended by deleting the words "or Commissioner of Insurance" each time they appear.

Sec. 6. G.S. 116B-30(c) is amended by deleting "or Commissioner of Insurance", each time they appear, and further by deleting "fifty dollars ($50.00)" and substituting "twenty-five dollars ($25.00)".

Sec. 7. G.S. 116B-30(e) is amended by deleting "and the Commissioner of Insurance".

Sec. 8. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 21st day of April, 1983.

H. B. 561 CHAPTER 205

AN ACT TO VALIDATE CERTAIN ACTS OF NOTARIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 10-12 is rewritten to read:

"§ 10-12. *Acts of certain notaries prior to and after qualification and whose commissions have expired validated.*—(a) All acknowledgements taken and other official acts done by any person who has heretofore been appointed or reappointed as a notary public, but who at the time of acting had failed to qualify as provided by law, shall, notwithstanding, be in all respects valid and sufficient; and property conveyed by instruments in which the acknowledgements were taken by such notary public are hereby validated and shall convey the properties therein purported to be conveyed as intended thereby.

(b) All acknowledgements taken and other official acts done by any person who has heretofore been appointed as a notary public, but whose commission has expired at the time of acting, shall be in all respects valid and sufficient. Instruments conveying property acknowledged by this notary public are validated and convey the properties they purport to convey.

(c) All acknowledgements taken and other official acts done by any person who has heretofore been appointed or reappointed and who has qualified as a notary public, but who, prior to the expiration of the commission, fails to continue to satisfy voting registration or residence requirements promulgated by the Secretary of State shall, notwithstanding, be in all respects valid and sufficient; and property conveyed by instruments in which the acknowledgements were taken by such notary public are hereby validated and shall convey the properties therein purported to be conveyed as intended thereby.

(d) This section shall apply to notarial acts prior to April 1, 1983."

Sec. 2. Nothing herein contained shall affect pending litigation.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1983.

H. B. 573 CHAPTER 206

AN ACT TO ALLOW THE DARE COUNTY BOARD OF COMMISSIONERS TO ABOLISH OR REDUCE THE SIZE OF THE KITTY HAWK FIRE PROTECTION DISTRICT, AND TO CHANGE THE NAME OF THE DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. In addition to the procedure of G.S. 69-25.10 for abolishing a fire district, the Dare County Board of Commissioners may abolish the Kitty Hawk Fire Protection District. In addition to the procedure of G.S. 69-25.11, the Dare County Board of Commissioners may decrease the area of the Kitty Hawk Fire Protection District by removing territory. If the district is abolished, funds and property shall be distributed, used, or disposed of as provided in G.S. 69-25.10.

Sec. 2. Upon or subsequent to any action taken under Section 1 of this act, the Dare County Board of Commissioners may change the name of the Kitty Hawk Fire Protection District.

Sec. 3. Any action taken under this act must be by ordinance, and a copy shall be filed with the Secretary of State and recorded in the office of the Register of Deeds of Dare County.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1983.

H. B. 599 CHAPTER 207

AN ACT TO AUTHORIZE LENOIR COUNTY TO PERMIT DISPOSITION OF LAND FOR A SPECIAL PURPOSE AT FAIR MARKET VALUE WITHOUT COMPETITIVE BIDDING: TO PERMIT DISPOSITION OF LAND ON THE BASIS OTHER THAN THE HIGHEST MONETARY BID, WHERE SUCH DISPOSITION IS FOUND TO SERVE THE BEST INTEREST OF THE MUNICIPALITY, AND TO DISPOSE OF PROPERTY AT PRIVATE SALE.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 1321, Session Laws of 1979, as amended by Section 2 of Chapter 868, Session Laws of 1981, is further amended by adding immediately after the word "Wilmington" the words ", Lenoir County,".

Sec. 2. G.S. 160A-514(e) is amended by adding the following new subdivision:

"(7) Convey at private sale without advertisement and bids to any person or firms displaced by redevelopment projects particular properties within a redevelopment area where it makes one or more of the following findings:

a. that the proposed use or redevelopment is necessary in order to facilitate the relocation of persons or firms displaced by a redevelopment project or other governmental action;

b. that the proposed use or redevelopment is reasonably necessary in order to assure development which will have the desired beneficial effect upon neighboring property, the project area and the community as a whole, as contemplated by the redevelopment plan.

Such conveyance shall be for such consideration as may be agreed upon by the Commission and the displaced person or firm and approved by the governing body of the municipality."

Sec. 3. Section 2 of this act applies to Lenoir County and the City of Kinston only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1983.

H. B. 613 CHAPTER 208

AN ACT TO AUTHORIZE THE TYRRELL COUNTY BOARD OF COMMISSIONERS TO ENTER INTO CERTAIN CONTRACTS WITHOUT COMPLYING WITH THE PROVISIONS OF CHAPTER 133 AND OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. The County of Tyrrell by and through its County Board of Commissioners shall have authority to enter into purchase and/or construction contracts for prefabricated and/or preengineered public buildings without complying with provisions of Chapter 133 of the General Statutes and without complying with those provisions of Article 8 of Chapter 143 of the General Statutes requiring separate specification and bidding for the classes of work enumerated in G.S. 143-128.

Sec. 2. This act shall become effective July 1, 1983, but shall expire June 30, 1985.

In the General Assembly read three times and ratified, this the 21st day of April, 1983.

H. B. 627 **CHAPTER 209**

AN ACT TO AMEND THE SCHOOL BUDGET AND FISCAL CONTROL ACT AS IT APPLIES TO SAMPSON COUNTY CONCERNING APPROVAL OF EXPENDITURES SOME OR ALL OF WHICH ARE TO BE PAID IN ENSUING FISCAL YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-441 is amended by adding a new subsection to read:

"(a1). Continuing Contracts for Capital Outlay. The Clinton City Administrative Unit may enter into a contract for capital outlay expenditures for the completion of the Sampson Middle School building, some portion or all of which is to be performed or paid or both in ensuing fiscal years, without the budget resolution including an appropriation for the entire capital outlay obligation, provided:

(1) the budget resolution includes an appropriation authorizing the current fiscal year's portion of the obligation; and

(2) an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sum obligated by the transaction for the current fiscal year; and

(3) contracts for such capital outlay expenditures are approved by a resolution adopted by the board of county commissioners, which resolution when adopted shall bind the board of county commissioners to appropriate sufficient funds in ensuing fiscal years to meet the amounts to be paid under the contract in those years."

Sec. 2. This act applies to Sampson County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1983.

S. B. 110 **CHAPTER 210**

AN ACT TO PERMIT THE STATE BOARD OF ELECTIONS TO ADOPT THE FINDINGS OF A COUNTY BOARD OF ELECTIONS AND ORDER A NEW ELECTION WITHOUT DUPLICATING THE PUBLIC HEARING HELD BY THE COUNTY BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-22.1 is amended by adding the following to the end of the first paragraph of that section:

"The State Board shall be authorized to order a new election without conducting a public hearing provided a public hearing on the allegations was held by the county or municipal board of elections and the State Board is satisfied that such hearing gave sufficient opportunity for presentation of evidence and provided further that the State Board adopts the findings of the county or municipal board of elections."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 21st day of April, 1983.

H. B. 518 CHAPTER 211

AN ACT TO AMEND THE AVERAGE COST BASIS FORMULA THE CITY OF RALEIGH MAY USE TO ASSESS THE COST OF EXTENDING WATER AND SEWER LINES.

The General Assembly of North Carolina enacts:

Section 1. The second and third sentences of Chapter 315, Session Laws of 1963, are rewritten to read:

"The projected average cost of such installations shall be calculated as follows: the average cost of construction for each particular size and material of lines shall be calculated from the preceding five calendar years' average costs, and an average rate of increase in average cost over the five-year period shall be calculated. The projected assessment rate per front foot of abutting property for the upcoming fiscal year shall be derived by multiplying one-half of the average cost times the average rate of increase and adding the product to the average cost amount."

Sec. 2. This act shall apply only to the City of Raleigh.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1983.

H. B. 525 CHAPTER 212

AN ACT TO PROVIDE FOR A CHANGE IN THE MANNER OF SELECTION OF THE WASHINGTON CITY BOARD OF EDUCATION, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 409, Private Laws of 1899, as amended by Section 2 of Chapter 136, Private Laws, Extra Session of 1921 and Chapter 228, Private Laws of 1933, is rewritten to read and the following new sections added to Chapter 409, Private Laws of 1899:

"Sec. 6. The public schools of the Washington City School Administrative Unit shall be under the control and management of a board of education composed of nine members, who shall be residents of the unit.

Sec. 6.1. The members of the board of education shall be elected at large by the voters of the Washington City School Administrative Unit. In the 1984 general election for county officers and biennially thereafter, nine persons shall be elected for two-year terms.

Sec. 6.2. Members of the board of education shall take office on the first Monday in December following their election.

Sec. 6.3. Elections shall be at large from the unit, shall be conducted on a nonpartisan basis, and the results shall be determined by the plurality method in accordance with G.S. 163-292. Elections shall be conducted by the Beaufort County Board of Elections. Candidates shall file notice of candidacy with a filing fee of five dollars ($5.00) during the period beginning at 12:00 noon on the last Monday in June and ending at 12:00 noon on the first Monday in August of the year of election. The forms shall be as prescribed by the Beaufort County Board of Elections and shall be similar to that in G.S. 163-294.2(a).

Sec. 6.4. In 1984, the Washington City Council shall appoint three members of the Washington City Board of Education to serve until the first Monday in

December of 1984 to succeed those appointed to serve until June 30, 1984. The terms of office of the three persons appointed to the Washington City Board of Education by the Washington City Council in 1982 for three-year terms to expire June 30, 1985, and the three persons appointed in 1983 for three-year terms to expire June 30, 1986, are shortened to expire on the first Monday in December of 1984."

Sec. 2. Section 6 of Chapter 409, Private Laws of 1899, as amended by Section 2 of Chapter 136, Private Laws, Extra Session of 1921 and Chapter 228, Private Laws of 1933, is rewritten to read and the following new sections added to Chapter 409, Private Laws of 1899:

"Sec. 6. The public schools of the Washington City School Administrative Unit shall be under the control and management of a board of education composed of nine members, who shall be residents of the unit.

Sec. 6.1. Three members of the board of education shall be appointed by the Washington City Council in 1984 to serve from July 1, 1984, until the first Monday in December of 1986. In 1986 and biennially thereafter, three persons shall be appointed to serve two-year terms beginning on the first Monday in December of the even-numbered year.

Sec. 6.2. Six members of the board of education shall be elected at large by the voters of the Washington City School Administrative Unit. In the 1984 general election for county officers and biennially thereafter, six persons shall be elected for two-year terms.

Sec. 6.3. Elected members of the board of education shall take office on the first Monday in December following their election.

Sec. 6.4. Elections shall be at large from the unit, shall be conducted on a nonpartisan basis, and the results shall be determined by the plurality method in accordance with G.S. 163-292. Elections shall be conducted by the Beaufort County Board of Elections. Candidates shall file notice of candidacy with a filing fee of five dollars ($5.00) during the period beginning at 12:00 noon on the last Monday in June and ending at 12:00 noon on the first Monday in August of the year of election. The form shall be as prescribed by the Beaufort County Board of Elections and shall be similar to that in G.S. 163-294.2(a).

Sec. 6.5. The terms of office of the three persons appointed to the Washington City Board of Education by the Washington City Council in 1982 for three-year terms to expire June 30, 1985, and the three persons appointed in 1983 for three-year terms to expire June 30, 1986, are shortened to expire on the first Monday in December of 1984."

Sec. 3. (a) Sections 1 and 2 shall not become effective unless approved by the voters of the Washington City School Administrative Unit. The Beaufort County Board of Elections shall hold a special election on October 11, 1983, (the date of the Washington City election) on the question of approval of Sections 1 or 2 of this act.

(b) The form of the ballot shall be:

"VOTE FOR ONLY ONE CHOICE

1. ☐ FOR Washington City Board of Education consisting of nine persons elected by the voters of the Washington City School Administrative Unit.
2. ☐ FOR Washington City Board of Education consisting of six persons elected by the voters of the Washington City School Administrative Unit and three persons appointed by the Washington City Council.

3. ☐ FOR Washington City Board of Education consisting of nine persons appointed by the Washington City Council."

(c) If a majority of the votes cast are in favor of question 1, then Section 1 of this act shall become effective upon the date of certification of the election results, and Section 2 of this act shall have no force or effect.

(d) If a majority of the votes cast are in favor of question 2, then Section 2 of this act shall become effective upon the date of certification of the election results, and Section 1 of this act shall have no force or effect.

(e) If a majority of the votes cast are in favor of question 3, then neither Section 1 nor 2 of this act shall have any force or effect.

Sec. 4. (a) If neither question 1, 2, nor 3 receives a majority of the votes cast in the October 11, 1983, election, then the Beaufort County Board of Election shall hold a second special election on November 8, 1983, if there is a run-off election for Mayor of Washington or Washington City Council, or there is another city, county, or State election or referendum on November 8, 1983, or on the date of the first 1984 primary election if there is no such election or referendum on November 8, 1983.

(b) At the second special election, the voters shall vote between the two questions provided in Section 3(b) of this act which received the two highest number of votes in the October 11, 1983, special election. Only those two questions shall appear on the ballot. Sections 3(c), 3(d), and 3(e) of this act as appropriate shall determine the effect the second special election has on Sections 1 and 2 of this act. Absentee ballots for the second special election if it is held on November 8, 1983, shall be available at least 10 days before the election.

Sec. 5. The Beaufort County Board of Elections shall certify the results of any election held under Section 3 or 4 of this act to the Secretary of State.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1983.

H. B. 572 CHAPTER 213

AN ACT TO PROHIBIT HUNTING FROM ROADS IN PART OF PERQUIMANS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt, take or kill any animal or bird on or from the right-of-way of any public road, street, highway or thoroughfare.

Sec. 2. Violation of this act is a misdemeanor punishable for a first conviction by a fine of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00) or by imprisonment not to exceed 30 days, and punishable for a second or subsequent conviction within three years by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), by imprisonment not to exceed 90 days or by both.

Sec. 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, by officers of the State Highway Patrol, by alcohol law enforcement agents, local ABC officers and by other peace officers with general subject matter jurisdiction.

Sec. 4. This act applies only to those portions of Bethel and Hertford Townships of Perquimans County which lie south or east of U.S. Highway 17.

Sec. 5. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 22nd day of April, 1983.

S. B. 263 CHAPTER 214

AN ACT TO AMEND CHAPTER 53 OF THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO BANKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-1(9) is amended by adding after the words "preferred stock, surplus," and before the words "and the amount of capital" in the first sentence thereof the following words:

"undivided profits, reserve for contingencies and other capital reserves (excluding accrued dividends on preferred stock and limited life preferred stock), mandatory convertible instruments, allowance for possible loan losses,".

Sec. 2. G.S. 53-43(4) is amended in the third line thereof by deleting the words ", either directly or through subsidiary corporations".

Sec. 3. G.S. 53-47 is amended by:

(a) deleting in the fourteenth line thereof the words and figures "fifty percent (50%) of its permanent surplus" and substituting the words and figures "seventy-five percent (75%) of its unimpaired capital fund", and

(b) adding after the word "loss." in the sixteenth line thereof the following new sentences:

"The foregoing limitation shall not apply to stock or ownership interests acquired in corporations, firms, partnerships or companies which hold banking premises or which are bank operating subsidiaries of such bank. The term 'invest' shall be deemed to include operating a business entity acquired by the bank, provided, however, that no bank shall make any such investment resulting in operations which are not closely related to banking without the prior written approval of the Commissioner of Banks. The Commissioner of Banks shall monitor the impact of investment activities of banks under this section on the safety and soundness of such banks."

Sec. 4. G.S. 53-48 is rewritten to read:

"§ 53-48. *Limitation of loans.*—(a) The total loans and extensions of credit, both direct and indirect, by a bank to a person, other than a municipal corporation for money borrowed, including in the liabilities of a firm the liabilities of the several members thereof, outstanding at one time and not fully secured, as determined in a manner consistent with subsection (b) of this section, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed fifteen percent (15%) of the unimpaired capital fund of the bank.

(b) The total loans and extensions of credit, both direct and indirect, by a bank to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed ten percent (10%) of the unimpaired capital fund of the bank. This limitation shall be separate from and in addition to the limitation contained in subsection (a) above.

(c) The discount of bills of exchange drawn in good faith against actual existing values, the discount of solvent trade acceptances or other solvent

commercial or business paper actually owned by the person negotiating the same, loans or extensions of credit secured by a segregated deposit account in the lending bank, the purchase of bankers acceptances of the kind described in Section 13 of the Federal Reserve Act and issued by other banks, and the purchase of any notes and the making of any loans, secured by not less than a like face amount of bonds of the United States, or an agency of the United States, or other obligations guaranteed by the United States Government, or State of North Carolina or certificates of indebtedness of the United States, or agency thereof, or other obligations guaranteed by the United States Government, shall not be considered as money borrowed within the meaning of this section: Provided, however, that the limitations of this section shall not apply to loans or obligations to the extent that they are secured or covered by guarantees or by commitments or agreements to take over or purchase the same, made by any federal reserve bank or by the United States or any department, board, bureau, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States.

(d) For purposes of this section, the term 'person' shall be deemed to include an individual, or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization or any other form of entity not specifically listed herein. Loans or extensions of credit to one person include loans made to other persons when the proceeds of the loans or extensions of credit are to be used for the direct benefit of the first person or the persons are engaged in a common enterprise. The Commissioner of Banks shall monitor the lending activities of banks under this section for undue credit concentrations and inadequate risk diversification which could adversely affect the safety and soundness of such banks."

Sec. 5. G.S. 53-62(c) is amended in the fifth, sixth, seventh and eighth lines thereof by deleting the words "and a board of managers or loan committee shall be responsible for the conduct and management of said branch, but not of the parent bank of any branch save that of which they are officers, managers, or committee".

Sec. 6. G.S. 53-64 is amended by:

(a) inserting after the word "stock" and before the first comma in line two thereof the words "or the stock of its parent bank holding company";

(b) inserting after the word "stock" and before the word "unless" in line three thereof the words "or of the capital stock of its parent bank holding company"; and

(c) inserting after the word "stock" and before the word "sold" in line five thereof the words "or the stock of its parent bank holding company".

Sec. 7. G.S. 53-66 is repealed.

Sec. 8. G.S. 53-80 is amended by rewriting the fourth sentence to read as follows:

"Notwithstanding the proviso at the end of this section, where the bank is a wholly owned subsidiary, the required qualifying shares shall be shares in the parent corporation, whether or not the bank was doing business before February 18, 1921."

Sec. 9. G.S. 53-91(d) is amended at the end thereof by changing the period at the end thereof to a semicolon and by adding the following words: "provided, however, this limitation shall not apply to loans extended to any officer or employee for the purchase of primary residences."

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1983.

S. B. 55 CHAPTER 215

AN ACT TO SET FEE LIMITS FOR THE BOARD OF NURSING HOME ADMINISTRATORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-280(g) is amended by inserting the following language between "fees" and "for" in the first line: "not to exceed two hundred and fifty dollars ($250.00)".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1983.

S. B. 126 CHAPTER 216

AN ACT TO AMEND THE PRESIDENTIAL PREFERENCE PRIMARY ACT TO ALLOW CHOOSING OF AN ALLOCATION FORMULA WHICH REFLECTS THE DIVISION OF VOTES BUT DOES NOT REQUIRE EXACT PROPORTIONAL REPRESENTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-213.8(a) is amended by deleting the second, third and fourth paragraphs, and inserting in lieu thereof the following new paragraph:

"Each political party shall allocate delegate positions in a manner which reflects the division of votes of the party primary consistent with the national party rules of that political party."

Sec. 2. The catch line of G.S. 163-213.8 is rewritten to read:

"§ 163-213.8. *Allocation of delegate positions to reflect division of votes in the primary.*"

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1983.

S. B. 169 CHAPTER 217

AN ACT TO REVISE PROCEDURES OF THE BOARD OF PODIATRY EXAMINERS.

The General Assembly of North Carolina enacts:

Section 1. The third sentence of G.S. 90-202.4(a) is amended by deleting "five years" and inserting in lieu thereof "seven years".

Sec. 2. The second sentence of G.S. 90-202.4(d) is amended by deleting "three" and inserting in lieu thereof "two".

Sec. 3. The second sentence of G.S. 90-202.4(e) is amended by deleting "three" and inserting in lieu thereof "two".

Sec. 4. The second sentence of G.S. 90-202.4(g) is amended by adding the following new language immediately before the period: "; Provided that in the event the positions of secretary and treasurer are not combined but are held by different members of the Board, the Board shall have authority to pay

compensation to the member holding the position of secretary and to the member holding the position of treasurer, if the Board so chooses, on a basis to be determined by the Board".

Sec. 5. G.S. 90-202.5 is amended by deleting "one hundred dollars ($100.00)" and inserting in lieu thereof "two hundred dollars ($200.00)".

Sec. 6. G.S. 90-202.6(c) is amended by deleting "one hundred dollars ($100.00)" and inserting in lieu thereof "two hundred dollars ($200.00)".

Sec. 7. G.S. 90-202.7(5) is amended by adding the following new language immediately before the period ", and the licensure requirements of that other state grant similar reciprocity to podiatrists licensed in North Carolina".

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1983.

S. B. 173 CHAPTER 218

AN ACT TO PROVIDE THAT COUNTIES WHICH MAINTAIN VOTER RECORDS ON ELECTRONIC DATA PROCESSING EQUIPMENT PROVIDE DISCS OR TAPES TO STATE PARTIES ON THE SAME SCHEDULE AS LISTS TO COUNTY PARTIES.

The General Assembly of North Carolina enacts:

Section 1. The next to the last sentence of G.S. 163-66 is amended by deleting "at least 120 days prior to each general election" and inserting in lieu thereof the words "once in each odd-numbered year, once during the first six calendar months of each even-numbered year, and once during the last six months of each even-numbered year".

Sec. 2. G.S. 163-66 is amended by adding a new sentence at the end to read "The discs or tapes to be furnished to the State chairman shall be furnished as soon as practicable but no later than 30 days after the request, and the State chairman is required to return the tapes or discs to the county board of elections within 60 days after receiving them."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1983.

H. B. 400 CHAPTER 219

AN ACT TO RESTRICT THE UNITED STATES GOVERNMENT'S ABILITY TO FORCE COUNTIES TO HOUSE FEDERAL PRISONERS IN THE COUNTY JAIL WITHOUT ADEQUATE FINANCIAL COMPENSATION AND SPACE CONSIDERATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162-34 is rewritten to read:

"§ 162-34. *United States prisoners.*—When a prisoner is delivered to the keeper of the county jail by the authority of the United States, such keeper shall receive and commit such prisoner if the jail has adequate and available housing space. The keeper of the county jail shall not be subject to any pains or penalties for refusal to receive and commit a federal prisoner. The United States shall reimburse the county for the incarceration of any federal prisoner at such rate as may be agreed upon between the county and the United States."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1983.

H. B. 18 CHAPTER 220

AN ACT TO INCREASE THE MAXIMUM AMOUNT OF THE BOND REQUIRED OF DISTRIBUTORS OF MOTOR FUEL AND SUPPLIERS OF SPECIAL FUEL, TO REQUIRE PERSONS WHO ARE BOTH DISTRIBUTORS AND SUPPLIERS TO FILE A BOND SUFFICIENT TO COVER BOTH LIABILITIES; AND TO IMPOSE PERSONAL LIABILITY UPON RESPONSIBLE CORPORATE OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-253 is amended:

(a) by designating the three paragraphs thereof as subsections (a), (b) and (c) respectively;

(b) with respect to the second paragraph thereof, hereinabove designated as subsection (b),

(1) by deleting from subparagraph (1) the word "and" following the semicolon at the end thereof;

(2) by changing the period at the end of subparagraph (2) to a semicolon, and by adding the word "and" thereafter;

(3) by adding a new subparagraph (3), to read as follows:

"(3) For all taxes due from the corporation pursuant to the provisions of Article 36 and Article 36A of Subchapter V of this Chapter.";

(4) in the fifth sentence thereof between the word "remitting" and the words "to the Secretary," striking the words "sales and use tax" and substituting the words "the taxes".

Sec. 2. G.S. 105-433 is amended as follows:

(1) by deleting the phrase "twenty thousand dollars ($20,000)" and inserting in lieu thereof the phrase "forty thousand dollars ($40,000)";

(2) by inserting a new sentence between the third and fourth sentences of that section to read:

"A distributor who is also required to be bonded under G.S. 105-449.5 as a supplier of special fuels may file a single bond, under either this section or under G.S. 105-449.5, for the combined amount required under these sections but not exceeding eighty thousand dollars ($80,000) and conditioned upon compliance with the requirements of Article 36 and Article 36A of this Subchapter."

Sec. 3. G.S. 105-449.5 is amended by rewriting the same to read as follows:

"§ 105-449.5. *Supplier to file bond.*—A supplier's license shall not be issued until the applicant has filed with the Secretary a bond in the approximate sum of three times the average monthly tax due to be paid by such supplier, but the amount of the bond shall in no case be less than five hundred dollars ($500.00) nor more than forty thousand dollars ($40,000). Such bond shall be in such form and with such surety or sureties as may be required by the Secretary, conditioned upon making proper reports and paying the tax provided for in this Article, and otherwise complying with the provisions of this Article. A supplier who is also required to be bonded under G.S. 105-433 as a distributor of motor

fuels may file a single bond, under either this section or under G.S. 105-433 for the combined amount required under these sections but not exceeding eighty thousand dollars ($80,000), and conditioned upon compliance with the requirements of Article 36 and Article 36A of this Subchapter."

Sec. 4. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 25th day of April, 1983.

S. B. 245 CHAPTER 221

AN ACT TO AMEND ADMINISTRATIVE PROVISIONS OF THE MARINE FISHERIES ACT TO MAKE A TECHNICAL CHANGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-221, as the same appears in 1978 Replacement to Volume 3A, Part II of the General Statutes, is amended by deleting the second sentence of subsection (a) and by deleting subsection (h) in its entirety.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1983.

S. B. 246 CHAPTER 222

AN ACT TO AMEND G.S. CHAPTER 143, ARTICLE 38 SO AS TO ELIMINATE OUTMODED PROVISIONS CONCERNING THE STATE STREAM SANITATION COMMITTEE AND THE BOARD OF WATER RESOURCES, AND AN OBSOLETE REFERENCE TO THE SAND DUNE LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-356 is hereby repealed.

Sec. 2. G.S. 143-357 is hereby repealed.

Sec. 3. G.S. 143B-282(2), as it now appears in 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended by deleting paragraph f.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1983.

H. B. 210 CHAPTER 223

AN ACT TO AUTHORIZE THE COMMISSIONER OF MOTOR VEHICLES TO COLLECT A FEE TO COVER THE COSTS OF APPROVING EQUIPMENT FOR USE ON MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-39 is amended by adding a new subsection to read:

"(f) The Commissioner is authorized to charge and collect the following fees for the verification of equipment to be used on motor vehicles or to be sold in North Carolina, when that approval is required pursuant to this Chapter:

(1) When a federal standard has been established, the fee shall be equal to the cost of verifying compliance with the applicable federal standard; or

(2) When no federal standard has been established, the fee shall be equal to the cost of verifying compliance with the applicable State standard. Any motor vehicle manufacturer or distributor who is required to certify his

products under the National Traffic and Motor Vehicle Safety Act of 1966, as from time to time amended, may satisfy the provisions of this section by submitting an annual written certification to the Commissioner attesting to the compliance of his vehicles with applicable federal requirements. Failure to comply with the certification requirement or failure to meet the federal standards will subject the manufacturer or distributor to the fee requirements of this subsection."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1983.

H. B. 449 CHAPTER 224

AN ACT TO PERMIT LOCAL GOVERNMENTS TO DISPOSE OF PROPERTY AND LIMIT THE USES THAT MAY BE MADE OF THE PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Article 12 of G.S. Chapter 160A is amended by adding a new section, to read as follows:

"Upon finding that such a limitation is in the public interest, the council, when disposing of property pursuant to this Article, may impose limitations upon the future use of the property. The council may do so by including in the conveyance appropriate covenants or other restrictions or by conveying an estate in fee simple determinable or fee simple subject to a condition subsequent. If property is to be conveyed subject to limitations on future use, the notice or advertisement of the sale required by Article 12 shall specify the limitations and the method by which they will be imposed."

Sec. 1.1. This act applies to McDowell County, only.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1983.

H. B. 486 CHAPTER 225

AN ACT TO ALLOW CABARRUS AND STOKES COUNTIES TO ESTABLISH VOTING PRECINCTS WITHOUT REGARD TO TOWNSHIP BOUNDARIES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 163-128, a county board of elections may divide a county into precincts for the purpose of voting without regard to township boundaries.

Sec. 2. This act applies to Cabarrus and Stokes Counties only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1983.

H. B. 506 CHAPTER 226

AN ACT TO AUTHORIZE THE CITY OF SHELBY TO ESTABLISH, OPERATE AND MAINTAIN A PUBLIC MARKET.

The General Assembly of North Carolina enacts:

Section 1. A city is authorized to establish, own, operate, equip, and maintain a public market, and acquire such land as may be necessary for the establishment of a public market; and to appropriate and expend nonproperty tax funds for such purpose. In lieu of the city operating such a market, the city is further authorized to contract with any individual, corporation, nonprofit corporation, governmental body, or any other group for the purpose of operating a public market.

Sec. 2. This act shall apply to the City of Shelby only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1983.

H. B. 811 CHAPTER 227

AN ACT TO EXCLUDE CERTAIN TERRITORY FROM THE PROPOSED CITY OF KANNAPOLIS IF ANNEXED BY THE CITY OF CONCORD.

The General Assembly of North Carolina enacts:

Section 1. Section 12 of Chapter 191, Session Laws of 1983, is amended by adding the following language immediately before the period at the end:

", provided that if the territory described in Annexation Petition 101 filed with the City of Concord on March 8, 1983, is annexed by the City of Concord under that petition, that area is excepted from the description in Section 11 of this act."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1983.

H. B. 495 CHAPTER 228

AN ACT EXEMPTING FROM THE PROVISIONS OF ARTICLE 12, CHAPTER 160A, OF THE GENERAL STATUTES OF NORTH CAROLINA, THE COUNTY OF IREDELL, AS TO LEASES OR SALES OF REAL ESTATE OWNED BY IT KNOWN AS THE LOWRANCE HOSPITAL PROPERTY AND THE PERSONAL PROPERTY USED FOR THE HOSPITAL AND MEDICAL CARE PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The County of Iredell is hereby exempt from all provisions, restrictions and limitations as to methods and procedures required to effectuate leases or sales of real estate and personal property provided for in Article 12 of Chapter 160A of the General Statutes, in connection with any lease or sale of real estate owned by it known as the Lowrance Hospital property consisting of approximately 6.4 acres and the buildings and improvements thereon, and the equipment and personal property now owned or hereafter acquired situate thereon and therein.

Sec. 2. This act is effective with respect to a sale or lease only if such sale or lease is given prior approval by a resolution unanimously adopted by the Board of County Commissioners of the County of Iredell, authorizing said lease or sale. Such lease or sale may be for cash or with deferred payments secured by a Purchase Money Deed of Trust and for other consideration. It is the intent hereof that leases and sales may be negotiated and consummated without further formality other than the required resolution unanimously adopted by the Iredell County Board of Commissioners, all on terms as negotiated, at a regular meeting or a special meeting called for that purpose after notice of the purpose of such meeting has been published in a newspaper having general circulation in Iredell County at least once and at least 10 days prior to such meeting.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 499 CHAPTER 229

AN ACT TO INCREASE MOTOR VEHICLE ACCIDENT REPORTING LIMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-166.1(a) is amended by deleting the phrase "two hundred dollars ($200.00)" and substituting the phrase "five hundred dollars ($500.00)".

Sec. 2. G.S. 20-166.1(b) is amended by deleting the phrase "two hundred dollars ($200.00)" and substituting the phrase "five hundred dollars ($500.00)".

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 500 CHAPTER 230

AN ACT TO ALLOW CENTRAL PIEDMONT COMMUNITY COLLEGE TO LEASE CERTAIN PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 115D-15 or any other provision of Chapter 115D of the General Statutes, the Board of Trustees of Central Piedmont Community College (hereinafter called the "Trustees") are hereby authorized: (1) to lease at private sale with or without monetary consideration to Central Piedmont Community College Foundation (hereinafter called the "Foundation") certain real property owned by the Trustees for a period not exceeding 11 years, (2) to contract with the Foundation for the construction by the Foundation with funds of the Foundation of a building on such real property leased from the Trustees and (3) to lease from the Foundation for a period not exceeding 10 years the building constructed by the Foundation to be used by the Trustees in the operation of a student bookstore.

Sec. 2. The Trustees are further authorized to enter into such leases and other agreements upon such terms and conditions as the Trustees deem best for the purpose of carrying into effect the foregoing transaction.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 415 CHAPTER 231

AN ACT TO MAKE CLEAR THAT PERSONAL JURISDICTION MAY BE OBTAINED BY SERVICE BY PUBLICATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-75.3(b)(1), G.S. 1-75.4, and G.S. 1-75.6 are amended by inserting immediately after the phrase "Rule 4(j)" the phrase "or Rule 4(j1)".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 531 CHAPTER 232

AN ACT TO REPEAL THE AUTHORIZATION FOR A GREENVILLE CEMETERY PURCHASE FUND, AND TO AUTHORIZE TRANSFER OF MONIES FROM THAT FUND.

The General Assembly of North Carolina enacts:

Section 1. Chapter 411, Session Laws of 1955 is hereby repealed.

Sec. 2. All funds currently held by the City of Greenville in the Cemetery Purchase Fund authorized and created by Chapter 411 of the Session Laws of 1955 may be transferred to the General Fund of the City of Greenville and used for any lawful purpose.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 553 CHAPTER 233

AN ACT TO ABOLISH THE TAR RIVER PORT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 7, Public-Local Laws, Extra Session of 1938, is repealed.

Sec. 2. Chapter 4, Public-Local Laws of 1939, is repealed.

Sec. 3. Chapter 1227, Session Laws of 1949, is repealed.

Sec. 4. Chapter 593, Session Laws of 1951, is repealed.

Sec. 5. The Tar River Port Commission is abolished, and its assets shall be disposed of and its liabilities assumed as shall be jointly agreed upon by the City of Greenville and the County of Pitt.

Sec. 6. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 562 CHAPTER 234

AN ACT TO PROVIDE FOR FILING AND NOTICE OF ELECTION TO THE COLUMBUS COUNTY BOARD OF EDUCATION AND THE WHITEVILLE CITY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 172, Session Laws of 1977, is amended by deleting the last sentence and inserting the following in lieu thereof:

"Candidates for elective positions on the Whiteville City Board of Education shall file notice of candidacy not earlier than noon on the twentieth Friday preceding the election and not later than noon on the fourteenth Monday preceding the election.

The Columbus County Board of Elections shall, at least 10 days but not more than 30 days prior to the opening of filing, publish notice of the filing period and how many seats on the Whiteville City Board of Education are to be elected at the upcoming election."

Sec. 2. Chapter 192, Session Laws of 1981, is amended by adding a new section to read:

"Sec. 3.1. (a) Candidates for the Columbus County Board of Education shall file notice of candidacy not earlier than noon on the twentieth Friday preceding the election and not later than noon on the fourteenth Monday preceding the election.

(b) The Columbus County Board of Elections shall, at least 10 days but not more than 30 days prior to the opening of filing, publish notice of the filing period and how many seats on the Columbus County Board of Education are to be elected at the upcoming election."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 566 CHAPTER 235

AN ACT TO AUTHORIZE THE CITY OF FAYETTEVILLE TO EXERCISE CERTAIN LAND ACQUISITION AND DISPOSAL PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Fayetteville, Chapter 557, Session Laws of 1979, as amended, is amended by adding a new Article to Chapter VIII to read:

"Article 7. Economic Development.

"Sec. 8.20. Definition. In this Article economic development project means an economic capital development project within a certain defined area or areas of the City as established by the City Council, comprised of one or more buildings or other improvements and including any public and/or private facilities. Said project may include programs or facilities for improving downtown redevelopment, 'pocket of poverty' or other Federal or State assistance programs which the City Council determines to be in need of economic capital development or revitalization.

"Sec. 8.21. Authorization. (a) In addition to any other authority granted by law, the City of Fayetteville may accept grants, expend funds, make grants or loans, acquire property and participate in capital economic development

projects which the City Council determines will enhance the economic development and revitalization of the City in accordance with the authority granted herein. Such project may include both public and/or private buildings or facilities financed in whole or in part by Federal or State grants (including but not limited to Urban Development Action Grants) and may include any capital expenditures which the City Council finds necessary to comply with conditions in any Federal or State grant agreements and which the City Council finds will complement the project and improve the public tax base and general economy of the City. By way of illustration, but not limitation, such a project may include the construction or renovation of any one or combination of the following projects:

(1) Privately owned hotel.

(2) Privately owned office building.

(3) Housing.

(4) Parking facilities.

(5) Industrial buildings.

(6) Site improvements.

(7) Privately owned commercial buildings, including warehouses.

Such project may be partially financed with City funds received from Federal or State sources and being granted or loaned to the private owner for said construction or renovation; in addition, other City funds from any sources may be used for acquisition, construction, leasing and/or operation of facilities by the City for the general public and for capital improvements to public facilities which will support and enhance the private facilities and the general economy of the City.

(b) When the City Council finds that it will promote the economic development or revitalization in the City, the City may acquire, construct, and operate or participate in the acquisition, construction, ownership and operation of an economic development project or of specific buildings or facilities within such a project and may comply with any State or Federal government grant requirements in connection therewith. The City may enter into binding contracts with one or more private parties or governmental units with respect to acquiring, constructing, owning or operating such a project. Such a contract may, among other provisions, specify the responsibilities of the City and the developer or developers and operators or owners of the project, including the financing of the project. Such a contract may be entered into before the acquisition of any real property necessary to the project by the City or the developer or other parties.

"Sec. 8.22. Property acquisition. An economic development project may be constructed on property acquired by the developer or developers, or on property directly acquired by the City, or on property acquired by the Redevelopment Commission or its successors while exercising the powers, duties and responsibilities pursuant to Article 22, Chapter 160A of the General Statutes.

"Sec. 8.23. Property disposition. In connection with an economic development project, the City may convey interests in property owned by it, including air rights over public facilities, as follows:

(1) If the property was acquired under Article 22, Chapter 160A, of the General Statutes, the property interests may be conveyed in accordance with special or general law. For these purposes:

a. G.S. 160A-514(e) is amended by adding the following new subdivision:

'(5) After a public hearing advertised in accordance with the provisions of G.S. 160A-513(e) and subject to the approval of the governing body of the municipality, the Commission may determine that in the best interest of the municipality certain property should be developed for one purpose only, which purpose shall be designated. The Commission shall advertise such property and designated purpose, and shall invite redevelopment proposals by public notice, by publication once a week for two consecutive weeks in a newspaper having general circulation in the municipality, and shall make available all pertinent information to any persons interested in undertaking a purchase of such property and the redevelopment of such property or any part thereof. Any property sold in accordance with this subsection shall be sold at public auction to the highest bidder for cash at a price not less than the fair market value thereof, as fixed by the Commission. All conveyances made under the authority of this subsection shall contain restrictive convenants limiting the use of property so conveyed to the designated purpose for which the conveyance is made.'

b. G.S. 160A-514(d) is amended by inserting the following at the end: 'Regardless of the preceding provisions, the Commission may reject the highest responsible bid and accept a lesser bid where it makes the following specific findings and where such findings are verified and approved by the governing body of the municipality after a public hearing advertised in accordance with the provisions of G.S. 160A-513: The general public welfare and proper development of the community will be better served by the bid which was accepted than by the higher bid or bids which were rejected, for one or more of the following reasons:

(1) The proposed use or development of the land under the successful bid will result in an assessed valuation for ad valorem taxation greater than that of the use or uses proposed by the higher bidders;

(2) The proposed use or development of the land under the successful bid will have a substantially greater beneficial effect upon neighboring property, the project area, and the community as a whole than the use or uses proposed by the higher bidders and will tend to induce greater investment in the development of other property in the area;

(3) The proposed use or development of the land under the successful bid will facilitate the relocation of families where required by law to a substantially greater degree than the use or uses proposed by the higher bidders.'

c. G.S. 160A-514(d) is amended by inserting the following clause between the word 'section' and the word 'provided' in line 16: 'or to a developer under the special circumstances set forth in subdivision (6) of subsection (e).'

d. G.S. 160A-514(e) is amended by adding the following new subdivision:

'(6) Convey at private sale to any other redeveloper particular properties within a redevelopment area where it finds the proposed redeveloper is the only known available, qualified and willing redeveloper for the contemplated use and makes one or more of the following findings

and all such findings are verified and approved by the governing body of the municipality after a public hearing, notice of which shall be given once a week for two successive calendar weeks in a newspaper published in the municipality, said notice to be published the first time, not less than 15 days prior to the date fixed for said hearing:

a. that the proposed use or redevelopment is necessary in order to facilitate the relocation of families where required by law;

b. that the proposed use or redevelopment is reasonably necessary in order to assure development which will have the desired beneficial effect upon neighboring property, the project area and the community as a whole, as contemplated by the redevelopment plan;

c. that the proposed use or redevelopment will assure that the property will not remain unused for an unduly long period and will result in a return to the local ad valorem rolls at a substantially earlier date than uses or redevelopment obtainable by other methods of disposition.

Such conveyance shall be for such consideration as may be agreed upon by the Commission and the redeveloper and approved by the governing body of the municipality, which shall not be less than the fair, actual value of the property as determined by the Commission and by the governing body of the municipality, based on competent evidence.'

(2) If the property was acquired by the City directly, the City may convey property interests by (i) any procedure set forth in its City Charter, special act or the general law, or (ii) by private negotiation or sale.

"Sec. 8.24. Construction of the project. A contract between the City and the developer or developers may provide that the developer or developers shall be responsible for the construction of the entire economic development project. If so, the contract shall include such provisions as the City Council deems sufficient to assure that any public facilities included in the project meet the needs of the City and are constructed at a reasonable price. Any funds loaned by the City, pursuant to this paragraph, to a private developer, and used by said developer in the construction of a project on private property shall not be deemed an expenditure of public funds.

"Sec. 8.25. Operation. The City may contract for the operation of any public facility or facilities included in an economic development project by a person, partnership, firm or corporation, public or private. In addition, the City, upon consideration, may contract through lease or otherwise whereby it may operate privately constructed parking facilities to serve the general public. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the City."

Sec. 2. Section 8.18 of the Charter, as enacted by Section 4 of Chapter 757, Session Laws of 1981, (G.S. 160A-516 amended), is removed from Article 6, Zoning, Chapter VIII, renumbered as Section 8.26 and made a part of Article 7, Economic Development, of Chapter VIII.

Sec. 3. This act shall apply only to the City of Fayetteville.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 576 **CHAPTER 236**

AN ACT TO REAPPORTION THE NEW BERN-CRAVEN COUNTY BOARD OF EDUCATION AND TO REDUCE ITS SIZE FROM TWELVE TO SEVEN MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. Sections 4, 5, and 6 of the Plan of Consolidation and Merger of Craven County Board of Education and New Bern City Board of Education and to Create and Establish One Administrative Unit for Both of the Public School Units in Craven County, as filed with the Secretary of State under former G.S. 115-74.1 on May 17, 1979, are repealed.

Sec. 2. Beginning with the 1984 primary and election, there are established seven voting districts, numbered one through seven for the purpose of nominating and electing School Board members from each voting district as hereinafter set out.

The New Bern-Craven County Board of Education shall consist of seven members who shall be nominated and elected, as hereinafter provided, from each of the following seven districts:

(1) DISTRICT NO. 1: Consisting of Township Number One and Township Number Two: One member.

(2) DISTRICT NO. 2: Consisting of Township Number Three and Township Number Nine and that part of Township Number Eight bounded by a perimeter which begins at the intersection of the Seaboard Coastline Railroad and Deep Gully, running thence with the railroad in a northeastwardly direction to its intersection with S.R. #1219 (Slaughter House Road); thence continuing along a centerline of the Seaboard Coastline Railway North 89 degrees 1 minute 16 seconds East, 1044.83 feet to the proposed City Limits of the City of New Bern; thence along the proposed City Limits line of the City of New Bern, the following courses and distances: North 13 degrees 33 minutes 40 seconds West 606.99 feet; North 17 degrees 17 minutes 52 seconds West 417.64 feet; North 10 degrees 51 minutes 12 seconds West 578.48 feet; North 86 degrees 7 minutes 27 seconds East 1083.78 feet; North 42 degrees 59 minutes 3 seconds East 272.79 feet; South 54 degrees 6 minutes 48 seconds West 29.96 feet; North 52 degrees 44 minutes 41 seconds East 579.45 feet; North 30 degrees 18 minutes 48 seconds West 314.41 feet; thence along the centerline of the Carolina Power and Light Company 70 foot easement (which is also the city limits line of the City of New Bern) North 31 degrees 00 minutes East 2586.45 feet; thence continuing along the city limits line North 59 degrees 00 minutes East extended to its intersection with Race Track Road; thence up the centerline of Race Track Road in a northerly direction to its intersection with N. C. Highway #55 (U.S. Highway #70 Business); thence with N.C. #55 (U.S. Highway #70 Business) in a southerly direction to its intersection with the Atlantic and East Carolina Railway; thence along the railway in an easterly direction to its intersection with Jack Smith Creek; thence down the run of the creek in a northeastwardly direction to the Neuse River; running thence up the river in a northwestwardly direction to the mouth of Bachelors Creek; thence with the run of the creek in a southerly direction to its intersection with Deep Gully, the Craven-Jones County line; thence in a southeastwardly direction along Deep Gully with the County line to its intersection with the Seaboard Coastline Railroad, the point of beginning: One member.

(3) DISTRICT NO. 3: Consisting of that part of Township Number Eight bounded by a perimeter which begins at the intersection of the Seaboard Coastline Railroad and Deep Gully, running thence with the railroad in a northeastwardly direction to its intersection with S.R. #1219 (Slaughter House Road); thence continuing along the centerline of the Seaboard Coastline Railway North 89 degrees 1 minute 16 seconds East 1044.83 feet to the proposed City Limits line of the City of New Bern; thence along the proposed City Limits line of the City of New Bern, the following courses and distances: North 13 degrees 33 minutes 40 seconds West, 606.99 feet; North 17 degrees 17 minutes 52 seconds West 417.64 feet; North 10 degrees 51 minutes 12 seconds West, 578.48 feet; North 86 degrees 7 minutes 27 seconds East 1083.78 feet; North 42 degrees 59 minutes 3 seconds East 272.79 feet; South 54 degrees 6 minutes 48 seconds West 29.96 feet; North 52 degrees 44 minutes 41 seconds West 314.41 feet; thence along the centerline of the Carolina Power & Light Company 70 foot easement (which is also the city limits line of the City of New Bern) North 31 degrees 00 minutes East 2586.45 feet; thence continuing along the city limits line North 59 degrees 00 minutes East extended to its intersection with Race Track Road; thence along the centerline of Race Track Road (S.R. #1220) in a southerly direction to its intersection with U.S. Highway #70 By-Pass; thence in a southeastwardly direction along the centerline of U.S. Highway #70 By-Pass to its intersection with U.S. Highway #17; thence along U.S. Highway #17 in a northeastwardly direction to its intersection with Queen Street; running thence with the centerline of Queen Street in a northeastwardly direction to its terminus on the Neuse River; thence down the Neuse River in a southerly direction to its confluence with the Trent River; thence up the Trent River in a westwardly direction to Deep Gully, the Craven-Jones County line; thence up Deep Gully in a northerly direction to its intersection with the Seaboard Coastline Railway, the point of beginning: One member.

(4) DISTRICT NO. 4: Consisting of that part of Township Number Eight bounded by a perimeter which begins at the terminus of Queen Street and the Neuse River; running thence with the centerline of Queen Street in a southwestwardly direction to its intersection with U.S. Highway #17 (Broad Street); thence in a westwardly direction and southwestwardly direction along the centerline of U.S. Highway #17 to its intersection with U.S. Highway #70 By-Pass; thence along the centerline of U.S. Highway #70 By-Pass in a northwestwardly direction to the centerline of S.R. #1220 extended (Old Race Track Road); thence along the centerline of S.R. #1220 in a northerly direction to its intersection with N.C. Highway #55; thence along the centerline of N.C. Highway #55 in a southeastwardly direction to its intersection with the Atlantic and East Carolina Railway; running thence with the centerline of the Atlantic and East Carolina Railway in a southeastwardly direction to its intersection with Jack Smith's Creek; running thence down the creek in a northeastwardly direction to the Neuse River; thence down the river in a southerly direction to the terminus of Queen Street, the point of beginning: One member.

(5) DISTRICT NO. 5: Consisting of Township Number Seven and that part of Township Number Six bounded by a perimeter which begins at the intersection of S.R. #1101 with the Craven-Jones County line; running thence in an eastwardly direction along the centerline of S.R. #1101 to its intersection with S.R. #1104; thence in a northerly direction with the centerline of S.R.

#1104 extended to the Neuse River; thence down the river in an eastwardly direction to the western boundary of the U.S. Marine Corps Cherry Point Air Station; thence running with the western boundary line of USMAC in a southerly direction to its intersection with Cedar Creek; thence in a southerly direction along the run of Cedar Creek to its intersection with Slocum Creek; thence in a southerly direction with the southwest prong of Slocum Creek to its intersection with the Atlantic & East Carolina Railroad; thence along the centerline of the railroad to its intersection with S.R. #1756; thence along the centerline of S.R. #1756 in a southwestwardly direction to its intersection with the Camp Lejeune Railroad; thence with the railroad in a southwestwardly direction to the Carteret County line; thence with the Craven-Carteret County line in a southwestwardly direction to the Jones County line; thence in a northerly direction with the Craven-Jones County line to its intersection with S.R. #1101, the point of beginning: One member.

(6) DISTRICT NO. 6: Consisting of that part of Township Number Six bounded by a perimeter which begins at the intersection of the Camp Lejuene Railroad with the Carteret County line; thence with the centerline of the railroad in a northeastwardly direction to its intersection with S.R. #1756; thence with the centerline of S.R. #1756 in a northerly direction to its intersection with the Atlantic & East Carolina Railroad; thence with the centerline of the Atlantic and East Carolina Railroad in a northwestwardly direction to its intersection with the southwest prong of Slocum Creek; thence down the run of the southwest prong of Slocum Creek in a northeastwardly direction to Slocum Creek; thence down the run of Slocum Creek in a northerly direction to the mouth of Cedar Creek; thence up the run of Cedar Creek in a westwardly direction to its intersection with the boundary line of the U.S. Marine Corps Air Station; thence with the boundaries of the air station in a northerly, then westwardly, then northerly direction to the Neuse River; thence down the Neuse River in an eastwardly direction to the mouth of Hancock Creek; thence up the run of Hancock Creek in a southerly direction to a point where Roosevelt Boulevard extended would intersect Hancock Creek; thence with the centerline of Roosevelt Boulevard in a westwardly and southerly direction to its intersection with U.S. Highway #70; thence with U.S. Highway #70 in a southerly direction to its intersection with the Craven-Carteret County line; thence southwestwardly with the county line to its intersection with the Camp Lejeune Railroad to the point of beginning: One member.

(7) DISTRICT NO. 7: Consisting of Township Number Five and that part of Township Number Six bounded by a perimeter which begins at the intersection of U.S. Highway #70 with the Carteret County Line; and runs with the centerline of U.S. Highway #70 in a northwestwardly direction to its intersection with Roosevelt Boulevard; thence along the centerline of Roosevelt Boulevard in a northerly and then eastwardly direction to Hancock Creek; thence up the run of Hancock Creek in a southerly direction to its intersection with the boundary line of Township Number Five; thence with the Township Number Five boundary line in a southerly direction to its intersection with the Carteret County line: One member.

Sec. 3. Each member must reside in the District which he represents. The New Bern-Craven County Board of Education shall be elected on a partisan basis. Commencing on the first Monday in December, 1984, the

membership of the New Bern-Craven County Board of Education shall be constituted as follows:

(1) During the county primary of 1984, there may be nominated one candidate for each political party from Districts 1 through 7.

(2) The candidate of each political party receiving the majority of votes cast by the qualified voters of his respective District shall be declared the nominee of his party; and his name shall appear on the ballot for the general election, as provided by law.

(3) During the county general election of 1984, there shall be elected by the qualified voters of the entire county the members of the New Bern-Craven County Board of Education.

(4) In 1984 and quadrennially thereafter, members of the Board of Education shall be elected from Districts 1, 3, 5, and 7 for four-year terms.

(5) In 1984, members of the Board of Education shall be elected from Districts 2, 4, and 6 for two-year terms. In 1986, and quadrennially thereafter, members of the Board of Education shall be elected from Districts 2, 4, and 6 for four-year terms.

(6) The qualified voters of each district shall nominate candidates who reside in the district for the seat apportioned to that district, and the qualified voters of the entire county shall elect all the members of the board.

Sec. 4. The candidates elected to the New Bern-Craven County Board of Education shall qualify and take office on the first Monday in December of the year in which elected.

Vacancies occurring in the New Bern-Craven County Board of Education after the first Monday in December of 1984 for any reason shall be filled for the unexpired term by action of the County Executive Committee of the political party of the member causing the vacancy.

Sec. 5. The Craven County Board of Elections shall hold and conduct primary and general elections for members of the New Bern-Craven County Board of Education in accordance with the provisions of Chapter 163 of the General Statutes.

Sec. 6. The terms of office of members of the New Bern-Craven County Board of Education elected in 1982 for four-year terms are terminated on the first Monday in December of 1984.

Sec. 7. The current members of the New Bern-Craven County Board of Education shall continue to serve until the first Monday in December of 1984 as long as they remain eligible according to the old district boundaries, and vacancies which occur before then shall be filled in accordance with Section 4 of the Plan of Merger as if it had not been repealed, with appointees to serve until the first Monday in December of 1984.

Sec. 8. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 600 CHAPTER 237

AN ACT TO INCREASE THE MEMBERSHIP OF THE INDUSTRIAL DEVELOPMENT COMMISSION FOR STANLY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of Section 2 of Chapter 141, Session Laws of 1961, as amended by Chapter 355, Session Laws of 1975, is amended by deleting "ten", and inserting in lieu thereof "twelve".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 601 CHAPTER 238

AN ACT TO PROVIDE THAT THE STANLY COUNTY BOARD OF COMMISSIONERS MAY DESIGNATE A COMMISSIONER TO SERVE EX OFFICIO ON THE STANLY COUNTY AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 419, Session Laws of 1971 is amended by adding the following immediately before the last sentence:

"The Board of Commissioners may determine that one of the five members shall be a county commissioner, whose term on the Airport Authority shall run concurrently with that member's term as county commissioner."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 606 CHAPTER 239

AN ACT TO ALLOW WILSON COUNTY TO LEASE HOSPITAL FACILITIES FOR LONGER THAN TEN YEARS, TO RESOLVE A CONFLICT BETWEEN TWO STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-272 is amended by deleting "except as otherwise provided herein" and inserting in lieu thereof "except as otherwise provided herein or in G.S. 131-126.20(c)".

Sec. 2. A lease agreement to be entered into for a term of more than 10 years pursuant to G.S. 131-126.20(c) shall be executed only pursuant to a resolution of the Wilson County Board of Commissioners authorizing the execution of the lease adopted at a regular meeting of the Board of Commissioners upon 10 days' public notice. Notice shall be given by publication describing the property to be leased, stating the annual lease payments, and announcing the intent of the Board of Commissioners to authorize the lease at its next regular meeting.

Sec. 3. This act applies only to Wilson County, and applies only to a lease of the hospital facility owned by it and situated on South Tarboro Street in Wilson to Wilson Memorial Hospital, Inc., a nonprofit organization.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 635 **CHAPTER 240**

AN ACT EXEMPTING FROM THE PROVISIONS OF ARTICLE 12, CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA, THE COUNTY OF EDGECOMBE AS TO LEASES OR SALES OF REAL ESTATE OWNED OR HEREAFTER OWNED BY IT FOR THE USE AND BENEFIT OF THE EDGECOMBE COUNTY DEVELOPMENT CORPORATION OR BY SUCH CORPORATION ITSELF.

The General Assembly of North Carolina enacts:

Section 1. The County of Edgecombe is hereby exempt from all provisions, restrictions and limitations as to methods and procedures required to effectuate leases or sales of real estate provided for in Article 12, Chapter 160A of the General Statutes of North Carolina in connection with any lease or sale of real estate made by it for and on behalf of the Edgecombe County Development Corporation, both as to real estate now owned or hereafter owned by either for the use and benefit of said county or by said Development Corporation itself.

Sec. 2. This act is effective with respect to a sale or lease only if such lease or sale is given prior approval by a Resolution of the Board of Commissioners of Edgecombe County authorizing said lease or sale. Such lease or sale may be for cash or with deferred payment secured by a purchase money deed of trust. It is the intent hereof that leases and sales may be negotiated and consummated without further formality other than the required Resolution by the Board of Commissioners of Edgecombe County all on terms as negotiated.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 647 **CHAPTER 241**

AN ACT REGARDING DISCOUNTS FOR PAYMENTS OF PROPERTY TAX IN SURRY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 105-360(c), the governing body of Surry County or any of its municipalities may provide by resolution, without the approval of the Department of Revenue, that the schedule of discounts for prepayment of taxes in effect in the county or municipality on August 31, 1983, shall continue in effect until November 1, 1983. The governing body of Surry County or its municipalities shall send a certified copy of any resolution adopted pursuant to this act to the Department of Revenue.

Sec. 2. This act applies to Surry County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 662 CHAPTER 242

AN ACT TO CHANGE THE JURISDICTION OF THE ROANOKE VOYAGES CORRIDOR COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Section 1(1)d. of Chapter 1194, Session Laws of 1981 is amended by deleting the words "in connection with adjacent development for commercial purposes".

Sec. 2. Section 6 of Chapter 1194, Session Laws of 1981 is amended by deleting "commercial" the first time it appears, and by deleting "for commercial purposes".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 707 CHAPTER 243

AN ACT TO ALLOW HERTFORD COUNTY TO SELL CERTAIN INDUSTRIAL PROPERTY AT PRIVATE SALE.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the Hertford County Board of Commissioners may convey at private sale with or without monetary consideration any or all of its right, title, or interest in all or any part of the following described property:

All that certain tract or parcel of land situate, lying and being in Winton Township, Hertford County, North Carolina, containing 80.845 acres as shown on a plat of survey made by J. C. Davis, R.L.S. L1243, dated November 30, 1977, entitled, "Map Showing Union Camp Corp. PART OF TRACT 1185 and 1284, ALL of TRACT 1502, Located in Winton Township, Hertford County, North Carolina, Scale: 1"=300 FEET". The said plat is recorded in Plat Book 9 at Page 21, Hertford County Registry and is incorporated herein by reference.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 739 CHAPTER 244

AN ACT TO REPEAL FAYETTEVILLE CIVIL SERVICE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Section 1, Chapter V, Article 2, of Chapter 557, 1979 Session Laws of the General Assembly of North Carolina, and Section 1 of Chapter 756, 1981 Session Laws of the General Assembly of North Carolina are hereby repealed.

Sec. 2. This act shall become effective June 1, 1983.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 197 **CHAPTER 245**

AN ACT TO REQUIRE ALL BRAKE LIGHTS TO BE RED AND PERMIT OTHER LIGHTS ON THE REAR OF ANY MOTOR VEHICLE TO BE AMBER, YELLOW, WHITE, CLEAR OR RED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-129.1(9) is rewritten to read:

"(9) Brake Lights (and/or brake reflectors) on the rear of a motor vehicle shall be red. The light illuminating the license plate shall be white. All other lights shall be white, amber, yellow, clear or red."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 427 **CHAPTER 246**

AN ACT TO MODIFY THE CONDITIONS OF AN ASSESSMENT ON YAM PRODUCERS WHICH MAY BE AUTHORIZED IN A PRODUCERS' REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-557 is amended by adding on the end the following: "Provided further, that the assessment authorized by this Article and collected by the Commissioner of Agriculture to be paid to the North Carolina Yam Commission, Inc., or other duly certified agencies entitled thereto for research, marketing and promotional programs related to yams or sweet potatoes may be levied at a rate not to exceed two percent (2%) of the value of the year's production of that agricultural commodity grown by any farmer, producer or grower included in the group to which the referendum is submitted, and when authorized by two-thirds or more of the farmers, producers or growers in the area in which the referendum is conducted, the rate of the assessment may remain in effect for the length of time provided in the referendum."

Sec. 2. G.S. 106-562 is amended in line 15 by inserting after the word "commodity" the words, "or such other assessment as shall be authorized by law,".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

S. B. 127 **CHAPTER 247**

AN ACT TO MAKE CLARIFYING AND PROCEDURAL CHANGES TO THE LAW REGARDING EDUCATION FOR CHILDREN WITH SPECIAL NEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-109 is amended in the second sentence by deleting the phrase "genetically impaired" and by substituting the phrase "other health impaired".

Sec. 2. G.S. 115C-109 is amended in the last sentence by deleting the phrase "and gifted and talented" and by substituting the phrase "and academically gifted".

Sec. 3. G.S. 115C-110(j) is amended by inserting a new sentence between the first and second sentences to read:

"Suspected children are those in the formal process of being identified, evaluated or diagnosed as children with special needs."

Sec. 4. (a) G.S. 115C-110(d)(2) is rewritten to read:

"(2) Minimum standards for the individualized educational program for all children with special needs other than for the academically gifted and the pregnant children, and for the group educational program for the academically gifted children and the educational program for the pregnant children, who receive special education and related services; and".

(b) G.S. 115C-110(k) is rewritten to read:

"(k) The Department shall monitor the effectiveness of individualized education programs in meeting the educational needs of all children with special needs other than the academically gifted and pregnant children, and of group educational programs in meeting the educational needs of the academically gifted children, and of educational programs in meeting the educational needs of the pregnant children".

(c) G.S. 115C-113(a) is amended by inserting between the first and second sentences a new sentence to read:

"The State Board of Education shall establish special, simplified procedures for the diagnosis and evaluation of the pregnant child, which procedures shall focus on the particular needs of the pregnant child and shall exclude those procedures which are not pertinent to the pregnant."

(d) G.S. 115C-113(c) is amended in the first sentence of the fourth paragraph by inserting between the phrase "individualized education program" and the phrase "shall evaluate" the phrase "or group educational program or both, or educational program,".

(e) G.S. 115C-113(f) is amended by rewriting the first sentence to read:

"Each local educational agency shall prepare individualized educational programs for all children found to be children with special needs other than the academically gifted and pregnant children, and group educational programs prescribed in subsection (g) of this section for the academically gifted children, and educational programs prescribed in subsection (h) of this section for the pregnant children."

(f) G.S. 115C-113 is amended by adding new subsections (g) and (h) to the end to read:

"(g) Each local educational agency shall prepare group educational programs for the academically gifted children. The State Board of Education shall promulgate rules and regulations specifically to address the preparation of these group educational programs, which rules and regulations shall include specific grouping standards and specific program standards, and shall also include standards for ensuring that the individual educational needs of each child within the group are addressed.

(h) Each local educational agency shall prepare educational programs for the pregnant children. The State Board of Education shall promulgate rules and regulations specifically to address the preparation of these educational programs, which rules and regulations shall include specific standards for ensuring that the individual educational needs of each child are addressed."

Sec. 5. G.S. 115C-112 is rewritten to read:

"§ 115C-112. *Disciplinary suspensions.*—(a) In the event that a child with special needs exhibits behavior which, if the child were not a child with special needs, could result in the suspension or expulsion of the child from school for a period of more than 10 days or for consecutive periods that total more than 10 days, the local education agency shall require a multidisciplinary team promptly to review the evaluation already completed for the child and conduct any additional evaluations necessary to determine if the behavior is caused by the child's special needs, which evaluations shall include determining (1) whether the child is presently receiving appropriate education, and (2) whether medication is needed or present medication is appropriate. If the evaluation establishes no such relationship between the behavior and the special needs, the local education agency may initiate its normal disciplinary procedures. If the evaluation does establish such a relationship, the local education agency may not initiate its normal disciplinary procedures. The findings should be used in determining an appropriate program.

(b) In an emergency situation, the child may be immediately suspended for a period not to exceed 10 days. As soon as possible after the suspension has begun, and in no case beyond the end of the 10-day maximum period, except under extraordinary circumstances, the multidisciplinary team shall conduct the evaluation described above in subsection (a). To constitute an emergency situation, there must be a continuing threat to the child or to others due to the child's behavior.

(c) In all actions involving suspension of a special needs child whose behavior is determined to be caused by his/her handicapping condition or lack of proper medication, the parties have available all the due process rights of G.S. 115C-116 and 20 USC 1415."

Sec. 6. (a) G.S. 115C-116(b) is amended by adding a new sentence after the fourth sentence to read:

"The impartial hearing officer shall be approved by the State Board of Education and shall have demonstrated to the State Board a sufficient knowledge of and familiarity with pertinent federal law and regulations as well as State law and regulations and applicable provisions of the Administrative Procedure Act."

(b) G.S. 115C-116(b) is amended by adding a new sentence at the end to read:

"The hearing, the agency review and the judicial review shall be conducted in accordance with Articles 3 and 4 of Chapter 150A of the General Statutes unless this section or pertinent federal law or regulation specifies otherwise."

(c) G.S. 115C-116(b1) is rewritten to read:

"(b1) State officials or employees and officials or employees of a local board of education who are subpoenaed shall not be entitled to any witness fees, but they shall receive their normal salary and they shall not be required to take any annual leave for their witness days."

(d) G.S. 115C-116 is amended by deleting subsections (g), (h) and (i).

Sec. 7. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

S. B. 220 CHAPTER 248

AN ACT TO REPEAL THE MARKETING OF FARMERS STOCK PEANUTS ACT, THE NORTH CAROLINA MEAT GRADING LAW, AND AN UNCONSTITUTIONAL PROVISION OF THE MARKETING AND BRANDING FARM PRODUCTS ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 106, Article 5A, regulating the marketing of farmers stock peanuts, is repealed in its entirety.

Sec. 2. G.S. Chapter 106, Article 15A, entitled the North Carolina Meat Grading Law, is repealed in its entirety.

Sec. 3. G.S. 106-189.1 is repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.

H. B. 225 CHAPTER 249

AN ACT TO MODIFY THE MEMBERSHIP OF THE COASTAL RESOURCES ADVISORY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-105(b)(1) is amended to read:

"(1) Two individuals designated by the Secretary of Natural Resources and Community Development from among the employees of his Department;".

Sec. 2. G.S. 113A-105(b) is amended by adding a new subdivision to read:

"(1a) The Secretary of the Department of Commerce or his designee;".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1983.

H. B. 466 CHAPTER 250

AN ACT TO AMEND THE CHARTER OF THE CITY OF STATESVILLE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Statesville, as the same is found in Chapter 289, Session Laws of 1977, is amended by deleting therefrom Sections 8.2 through 8.6, inclusive, and by rewriting Section 8.1 to read:

"Sec. 8.1. Procedure for assessments. Assessments for street or sidewalk improvements shall be made pursuant to, and in accordance with, Article 10 of Chapter 160A of the General Statutes, provided that the City Council may levy special assessments for street or sidewalk improvements without regard to the receipt or non-receipt of a petition for said improvements; provided further, that not more than fifty percent (50%) of the cost of the improvement may be assessed (not including the cost of improvements made at street intersections), unless a petition for the improvements, signed by at least a majority in number of the owners of property to be assessed, who must represent at least a majority of all the lineal feet of frontage of the lands abutting on the street or sidewalk or portion thereof to be improved, requests a higher percentage."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1983.

S. B. 101 CHAPTER 251

AN ACT TO MAKE FIRST AND SECOND DEGREE SEX OFFENSES NONDIVERTIBLE OFFENSES FOR JUVENILE COMPLAINTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-531 is amended by deleting the word "rape" from the third paragraph and replacing it with the following: "first or second degree rape; first or second degree sexual offense".

Sec. 2. This act shall become effective October 1, 1983, and applies to offenses committed on and after that date.

In the General Assembly read three times and ratified, this the 29th day of April, 1983.

H. B. 196 CHAPTER 252

AN ACT TO AMEND G.S. 20-57(e) PERTAINING TO THE DIVISION ISSUING CERTIFICATE OF TITLES AND REGISTRATION CARDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-57(e) is rewritten to read:

"(e) The certificate of title shall contain upon the reverse side an assignment of title or interest and warranty by registered owner or registered dealer. The purchaser's application for North Carolina Certificate of Title shall be made on a form prescribed by the Commissioner and shall include a space for notation of liens and encumbrances on the vehicle at the time of transfer."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 2nd day of May, 1983.

H. B. 285 CHAPTER 253

AN ACT PROVIDING THAT PERSONALIZED PLATES FOR COMMERCIAL VEHICLES SHALL NOT HAVE THE WORD "COMMERCIAL" ON THEM AND REGULATING THE REPLACEMENT OF REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 20-63(b) is rewritten to read:

"Provided that plates bearing the word 'commercial' shall not be issued for trailers, for vehicles licensed for less than 5,000 pounds, and for property carrying vehicles or for any commercial vehicle bearing a personalized plate issued pursuant to G.S. 20-81.3."

Sec. 2. The seventh sentence of G.S. 20-63(b) is amended by deleting "but not later than January 1, 1984,".

Sec. 3. The last sentence of G.S. 20-63(b) is amended by deleting the word "renewal" and substituting "replacement".

Sec. 4. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 2nd day of May, 1983.

H. B. 342 CHAPTER 254

AN ACT TO PERMIT ALTERNATIVE MARKINGS ON VEHICLES TRANSPORTING DANGEROUS ARTICLES THAT STOP AT RAILROAD CROSSINGS.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of G.S. 20-143.1(d) is amended by deleting: "THIS VEHICLE STOPS AT RAILROAD CROSSINGS." and substituting: "'THIS VEHICLE STOPS AT RAILROAD CROSSINGS' or 'WE STOP AT RR CROSSINGS.'"

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1983.

H. B. 873 CHAPTER 255

AN ACT AMENDING G.S. 160A-456 TO CLARIFY THE AUTHORITY OF THE CITY OF DURHAM TO MAKE GRANTS AND LOANS FOR THE ECONOMIC DEVELOPMENT OF BUSINESSES SERVING THE NEEDS OF PERSONS OF LOW AND MODERATE INCOME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-456(a), as set forth in the 1982 Replacement Volume 3D, Part I, is hereby amended by repealing paragraphs (1) and (2), which follow the colon in line 5, and by inserting in lieu thereof the following new paragraphs (1), (2) and (3):

"(1) Programs of assistance and financing of rehabilitation and construction of private buildings principally for the benefit of low and moderate income persons, or for the restoration or preservation of older neighborhoods or properties, including direct repair, the making of grants or loans, the subsidization of interest payments on loans, and the guaranty of loans;

(2) Programs concerned with economic development, including the making of grants or loans, and the subsidization of interest payments on, and the guaranty of, loans for businesses serving the needs of persons of low and moderate income;

(3) Programs concerned with employment, crime prevention, child care, health, drug abuse, education, and welfare needs of persons of low and moderate income."

Sec. 2. This act applies only to the City of Durham.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1983.

H. B. 597 **CHAPTER 256**

AN ACT TO INCORPORATE THE TOWN OF WEDDINGTON IN UNION COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The following provisions of law shall constitute the Charter of the Town of Weddington in Union County:

"THE CHARTER OF THE TOWN OF WEDDINGTON.

"Chapter I.

"Incorporation and Corporate Powers.

"Sec. 1.1. Incorporation and Corporate Powers. The inhabitants of the Town of Weddington, which area is described in Section 2.1 below are a body corporate and politic under the name 'Town of Weddington'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed upon cities by the general law of North Carolina.

"Chapter II.

"Corporate Boundaries.

"Article 1. Town Boundaries.

"Sec. 2.1. Town Boundaries. Until modified in accordance with law, the boundaries of the Town of Weddington are as follows:

BEGINNING at a point in the center line of State Road No. 1345 (Tilley Morris Road) at its intersection with the Mecklenburg-Union County line; thence down and with the center line of State Road No. 1345 (Tilley Morris Road) in an easterly direction to a point marking the center of the intersection of the center line of State Road No. 1345, and State Road No. 1344 (Weddington-Matthews Road), thence down and with the centerline of State Road 1344 (Weddington-Matthews Road) in an easterly direction to a point marking the center of the intersection of the center line of State Road No. 1344 and State Road No. 1338; thence down and with the center line of State Road No. 1338 (Antioch Church Road) running in a southeasterly direction to a point which marks the intersection of the center line of State Road No. 1338 with the center line of State Road No. 1347 (Huntington Drive); thence down and with the center line of Huntington Drive in a southwesterly direction to a point marking the intersection of the center line of State Road No. 1347 (Huntington Drive) and the center line of State Road No. 1346 (Beulah Church Road); thence down and with the center line of State Road No. 1346 (Beulah Church Road) in a southeastern direction to a point marking the intersection of the center line of State Road No. 1346 with the center line of State Road No. 1341 (Twelve Mile Creek Road); thence down and with the center line of State Road No. 1341 (Twelve Mile Creek Road) in a southerly direction passing its intersection with State Road No. 1340 and North Carolina Highway 84 to a point marking the center of the intersection of the center line of State Road No. 1341 (Twelve Mile Creek Road) with the center line of State Road No. 1315 (New Town Road); thence up and with the center line of State Road No. 1315 (New Town Road) in a westerly direction crossing its intersection with State Road No. 1320 to a point marking the center of the intersection of State Road No. 1315 (New Town Road) and State Road No. 1319 (Ennis Road); thence with the center line of State Road No. 1319 (Ennis Road) in a northwesterly direction to a point marking the center of the intersection of the center line of

State Road No. 1319 (Ennis Road) with the center line of North Carolina Highway 16; thence down and with the center line of North Carolina Highway 16 in a southwesterly direction to a point, a common corner with the southeastern property corner of Mark K. Teal and wife, Cindy M. Teal as shown in Deed Book 323, at page 23, Union County Register of Deeds; thence down and with the southern line of the Teal property North 86 degrees 07 minutes 30 seconds West 166.33 feet to a point in the southern property line of the Francis Robicsek and wife, Livia K. Robicsek line as shown in Deed Book 216, at page 746, Union County Register of Deeds; thence down and with the southern property line of the Robicsek property North 86 degrees West 2,722 feet to an iron stake and stones by a Sp. O. in a line of the property of Tom Houston; thence with Robicsek's property lines as follows: 1st., South 10 degrees 15 minutes West approximately 1,042 feet to a stone by a hickory; thence 2nd., North 71 degrees 15 minutes West 585 feet; thence 3rd., North 70 degrees 27 minutes 19 seconds West 841.99 feet; thence 4th., North 4 degrees 54 minutes 01 second West 1,618.14 feet to an iron; thence 5th., North 41 degrees 03 minutes 48 seconds East 324.40 feet to an old iron; thence 6th., North 72 degrees 35 minutes 27 seconds East 185 feet; thence 7th., South 9 degrees 00 minutes East 210 feet to an iron; thence 8th., North 72 degrees 33 minutes 05 seconds East 209.74 feet; thence 9th., North 72 degrees 15 minutes 45 seconds East 353.85 feet to an iron; thence 10th., North 8 degrees 36 minutes 46 seconds West 250 feet to an iron; thence 11th., North 72 degrees 15 minutes 45 seconds East 1,567.56 feet to an iron; to a point marking the southwestern property corner of Ferdinand Lee property as shown in Deed Book 219 at page 16, Union County Register of Deeds; thence with Lee's western property line North 71 degrees 15 minutes East 1,032 feet to the Joseph R. Hudson property corner; thence with five lines of the Joseph R. Hudson property as shown in Deed Book 349, at page 664 Union County Register of Deeds; 1st., North 59 degrees 30 minutes West 316 feet; thence 2nd., North 28 degrees 30 minutes West 770 feet; thence 3rd., North 37 degrees 30 minutes West 863 feet to a stake; thence 4th., with Charlton Howard's line North 64 degrees 57 minutes East 1,427 feet to an iron; thence 5th., North 03 degrees 30 minutes West 890 feet to a point in the center line of State Road No. 1316, (Marvin-Weddington Road); thence North 89 degrees East 104 feet to a point in the Grace S. and Cecil A. Steele property as shown in Deed Book 126, at page 175, Union County Register of Deeds; thence with two lines of the Steele property, 1st., North 18 degrees East 315 feet to an iron stake; thence 2nd., South 85 degrees 15 minutes East 420 feet to an iron stake; thence with the Joseph R. Hudson property as shown in Deed Book 349, at page 664, Union County Register of Deeds North 18 degrees 27 minutes East 1,551 feet to a point in the Western line of Weddington Estates as shown in Plat Book 5, at page 74, Union County Register of Deeds; thence down and with two lines of Weddington Estates, 1st., North 37 degrees 46 minutes 10 seconds West 769.1 feet to an iron; thence 2nd., North 57 degrees 59 minutes 30 seconds East 470.95 feet to a point in the Howard C. Gordon and wife, Carolyn Gordon property as shown in Deed Book 356, at page 117, Union County Register of Deeds; thence with the Gordon line North 62 degrees 03 minutes East 148.40 feet to an old iron in the property line of Charles L. Byrum and wife, Alice B. Byrum as shown in Deed Book 244, at page 259, Union County Register of Deeds; thence with the western line of the Byrum property North 41 degrees 43 minutes West 368.6 feet to an old iron, a corner with the E. W.

Killough property as shown in Deed Book 80, at page 443, Union County Register of Deeds; thence with the western line of the Killough property North 571/4 degrees East to a point in the center line of State Road No. 1317 (Weddington School Road); thence with the center line of State Road No. 1317 in a northwesterly direction to a point marking the southwestern property corner of the J. Mason Wallace, Jr., and wife, Nancy A. Wallace property as shown in Deed Book 177, at page 355, Union County Register of Deeds; thence with the Western line of the J. Mason Wallace, Jr., property North 04 degrees 34 minutes West 2646.35 feet, thence with another of Wallace's lines, North 63 degrees 56 minutes 20 seconds East to the Union-Mecklenburg County Line thence down and with the Union-Mecklenburg County line in a northeasterly direction to the center of its intersection with the center line of State Road No. 1345, (Tilley Morris Road), the point and place of BEGINNING.

"Article 2. Electoral District Boundaries.

"Sec. 2.1. Electoral District Boundaries. Until modified in accordance with law, the boundaries of the electoral districts of the Town of Weddington are as follows:

BOUNDARY FOR ELECTORAL DISTRICT I.

BEGINNING at a point in the center of the intersection of State Road No. 1345 (Tilley Morris Road) and State Road No. 1344 (Weddington-Matthews Road) and running thence down and with the center line of State Road No. 1344 (Weddington-Matthews Road) in a southwesterly direction to a point marking the center of the intersection of State Road No. 1344 with the center line of North Carolina Highway 84; thence up and with the center line of North Carolina Highway 84 in a northwesterly direction to a point marking the center of the intersection of North Carolina Highway 84 and North Carolina Highway 16; thence down and with the center line of North Carolina Highway 16 in a southwesterly direction to a point, a common corner with the southeastern property corner of Mark K. Teal and wife, Cindy M. Teal as shown in Deed Book 323, at page 23, Union County Register of Deeds; thence down and with the southern line of the Teal property North 86 degrees 07 minutes 30 seconds West 166.33 feet to a point in the southern property line of the Francis Robicsek and wife, Livia K. Robicsek line as shown in Deed Book 216, at page 746, Union County Register of Deeds; thence down and with the southern property line of the Robicsek property North 86 degrees West 2,722 feet to an iron stake and stones by a Sp. O. in a line of the property of Tom Houston; thence with Robicsek's property lines as follows: 1st., South 10 degrees 15 minutes West approximately 1,042 feet; thence 2nd., North 71 degrees 15 minutes West 585 feet; thence 3rd; North 70 degrees 27 minutes 19 seconds West 841.99 feet; thence 4th., North 4 degrees 54 minutes 1 second West 1,618.14 feet to an iron; thence 5th., North 41 degrees 03 minutes 48 seconds East 324.40 feet to an old iron; thence 6th., North 72 degrees 35 minutes 27 seconds East 185 feet; thence 7th., South 9 degrees 00 minutes East 210 feet to an iron; thence 8th., North 72 degrees 33 minutes 05 seconds East 209.74 feet; thence 9th., North 72 degrees 15 minutes 45 seconds East 353.85 feet to an iron; thence 10th., North 8 degrees 36 minutes 46 seconds West 250 feet to an iron; thence 11th., North 72 degrees 15 minutes 45 seconds East 1,567.56 to an iron; to a point marking the southwestern property corner of Ferdinand Lee property as shown in Deed Book 219 at page 16, Union County Register of Deeds; thence with Lee's western property line North 71 degrees 15 minutes East 1,032 feet to

the Joseph R. Hudson property corner; thence with five lines of the Joseph R. Hudson property as shown in Deed Book 349, at page 664, Union County Register of Deeds; 1st., North 59 degrees 30 minutes West 316 feet; thence 2nd., North 28 degrees 30 minutes West 770 feet; thence 3rd., North 37 degrees 30 minutes West 863 feet to a stake; thence 4th., with Charlton Howard's line North 64 degrees 57 minutes East 1,427 feet to an iron; thence 5th., North 3 degrees 30 minutes West 890 feet to a point in the center line of State Road No. 1316, (Marvin-Weddington Road); thence North 89 degrees East 104 feet to a point in the Grace S. and Cecil A. Steele property as shown in Deed Book 126, at page 175, Union County Register of deeds; thence with two lines of the Steele property, 1st., North 18 degrees East 315 feet to an iron stake; thence 2nd., South 85 degrees 15 minutes East 420 feet to an iron stake; thence with the Joseph R. Hudson property as shown in Deed Book 349, at page 664, Union County Register of Deeds North 18 degrees 27 minutes East 1,551 feet to a point in the Western line of Weddington Estates as shown in Plat Book 5, at page 74, Union County Register of Deeds; thence down and with two lines of Weddington Estates, 1st., North 37 degrees 46 minutes 10 seconds West 769.1 feet to an iron; thence 2nd., North 57 degrees 59 minutes 30 seconds East 470.95 feet to a point in the Howard C. Gordon and wife, Carolyn Gordon property as shown in Deed Book 356, at page 117, Union County Register of Deeds; thence with the Gordon line North 62 degrees 03 minutes East 148.40 feet to an old iron in the property line of Charles L. Byrum and wife, Alice B. Byrum as shown in Deed Book 244, at page 259, Union County Register of Deeds; thence with the western line of the Byrum property North 41 degrees 43 minutes West 368.6 feet to an old iron, a corner with the E. W. Killough property as shown in Deed Book 80, at page 443, Union County Register of Deeds; thence with the western line of the Killough property North 57 1/4 degrees East to a point in the center line of State Road No. 1317 (Weddington School Road); thence with a center line of State Road No. 1317 in a northwesterly direction to a point marking the southwestern property corner of the J. Mason Wallace, Jr., and wife, Nancy A. Wallace property as shown in Deed Book 177, at page 355, Union County Register of Deeds; thence with a Western line of the J. Mason Wallace, Jr., property North 4 degrees 34 minutes West 2646.35 feet, thence with another of Wallace's lines North 63 degrees 56 minutes 20 seconds East to the Union-Mecklenburg County thence along and with the Union-Mecklenburg County Line to a point at its intersection with State Road No. 1345 (Tilley Morris Road); thence down and with the center line of State Road No. 1345 (Tilley Morris Road) in an Easterly direction a point marking the center of the intersection of State Road No. 1345 (Tilley Morris Road) and State Road No. 1344 (Weddington-Matthews Road), the point and place of BEGINNING.

BOUNDARY FOR ELECTORAL DISTRICT II.

BEGINNING at a point, said point marking the intersection of the center line of State Road No. 1345 (Tilley Morris Road) and the center line of State Road No. 1344 (Weddington-Matthews Road); thence down and with the center line of State Road No. 1344 (Weddington-Matthews Road) in a Southerly direction to a point marking the center of the intersection of State Road No. 1344 (Weddington-Matthews Road) and State Road No. 1346 (Beulah Church Road); thence down and with the center line of State Road No. 1346 (Beulah Church Road) running in a southeasterly direction to a point marking the intersection of the centerline of State Road No. 1346 (Beulah Church Road) with the center

line of State Road No. 1347 (Huntington Drive); thence up and with the center line of State Road No. 1347 (Huntington Drive) in a northeasterly direction to a point marking the center of the intersection of State Road No. 1347 (Huntington Drive) and State Road No. 1338 (Antioch Church Road); thence with the center line of State Road No. 1338 (Antioch Church Road) in a northerly direction to a point marking the center of the intersection of State Road No. 1338 (Antioch Church Road) and State Road No. 1344 (Weddington-Matthews Road); thence with the center line of State Road No. 1344 (Weddington-Matthews Road) in a southwesterly direction to a point marking the center of the intersection of State Road No. 1344 (Weddington-Matthews Road) and State Road No. 1345 (Tilley Morris Road) the point and place of BEGINNING.

BOUNDARY FOR ELECTORAL DISTRICT III.

BEGINNING at a point, said point marking the center of the intersection of State Road No. 1344 (Weddington-Matthews Road) and State Road No. 1346 (Beulah Church Road); thence down and with the center line of State Road No. 1346 (Beulah Church Road) in a southeasterly direction to a point marking the center of the intersection of State Road No. 1346 (Beulah Church Road) and State Road No. 1341 (Twelve Mile Creek Road); thence down and with the center line of State Road No. 1341 (Twelve Mile Creek Road) in a southwesterly direction to a point marking the center of the intersection of State Road No. 1341 (Twelve Mile Creek Road) and North Carolina Highway 84; thence up and with the center line of North Carolina Highway 84 in a northwesterly direction to a point marking the instersection of the center lines of North Carolina Highway 84 and State Road No. 1344 (Weddington-Matthews Road); thence with the center line of State Road No. 1344 (Weddington-Matthews Road) in a northeasterly direction to a point marking the center of the intersection of the center line of State Road No. 1344 (Weddington-Matthews Road) and the center line of State Road No. 1346 (Beulah Church Road), the point and place of BEGINNING.

BOUNDARY FOR ELECTORAL DISTRICT IV.

BEGINNING at a point, said point marking the center of the intersection of North Carolina Highway 84 and State Road No. 1341 (Twelve Mile Creek Road); thence down and with the center line of State Road No. 1341 (Twelve Mile Creek Road) in a southerly direction to a point marking the center of the intersection of State Road No. 1341 (Twelve Mile Creek Road) and State Road No. 1315 (New Town Road); thence along and with the center line of State Road No. 1315 (New Town Road) in a northwesterly direction to a point marking the center of the intersection of State Road No. 1315 (New Town Road) with State Road No. 1319 (Ennis Road); thence along and with the center line of State Road No. 1319 (Ennis Road) in a northwesterly direction to a point marking the center of the intersection of State Road No. 1319 (Ennis Road) with the center of North Carolina Highway 16 (Providence Road); thence up and with the center line of North Carolina Highway 16 in a northerly direction to a point marking the center of the intersection with North Carolina Highway 16 and North Carolina Highway 84; thence with the center line of North Carolina Highway 84 in a southeasterly direction to a point marking the center of the intersection of North Carolina Highway 84 and State Road No. 1341 (Twelve Mile Creek Road), the point and place of BEGINNING.

"Chapter III

"Governing Body.

"Sec. 3.1. Structure of Governing Body; Number of Members. The governing body of the Town of Weddington is the Town Council, which has four members, and the Mayor.

"Sec. 3.2. Temporary Officers. Until the initial election provided for by Section 4.1 of this Charter, Mark K. Teal is hereby appointed Mayor, and Howard Gordon of District I, Noreen Morris of District II, Max W. Meek of District III and John A. Moga, Jr., of District IV are hereby appointed Councilmen of the town of Weddington, and they shall possess and may exercise the powers granted to the Mayor and Town Council until their successors are elected or appointed and qualify pursuant to this Charter.

"Sec. 3.3. Manner of Electing Town Council. The Town is divided into four electoral districts, and each district is represented on the Council by one member. The qualified voters of the entire Town elect the members of the Council. To be eligible for election to the Council and for service on the Council as representative of a district, a person must reside in the district.

"Sec. 3.4. Term of Office of Town Council. Members of the Council are elected to two-year terms.

"Sec. 3.5. Manner of Electing Mayor; Term of Office. The qualified voters of the entire Town elect the Mayor. He is elected to a two-year term of office.

"Chapter IV.

"Elections.

"Sec. 4.1. Conduct of Town Elections. Town Officers shall be elected on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"Chapter V.

"Administration.

"Sec. 5.1. Town to Operate Under Mayor-Council Plan. The Town of Weddington operates under the Mayor-Council plan as provided in General Statutes Chapter 160A, Article 7, Part 3.

"Chapter VI.

"Finance.

"Sec. 6.1. Taxation. The territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the Town for the fiscal year 1983-1984 and subsequent years. The Town may obtain from Union County, and the Union County Tax Supervisor shall provide upon request, a record of property within the corporate limits, which property was listed for taxation as of January 1, 1983."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1983.

S. B. 151 **CHAPTER 257**

AN ACT TO COMMEMORATE THE DATE OF THE ADOPTION OF THE HALIFAX RESOLVES ON THE GREAT SEAL OF NORTH CAROLINA.

Whereas, April 12, 1983, is the 207th anniversary of the occasion on which the Fourth North Carolina Provincial Congress adopted the famous Halifax Resolves; and

Whereas, the Halifax Resolves authorized the North Carolina delegates to the Continental Congress at Philadelphia to concur with the delegates of other colonies in a declaration of independence from the British Empire; and

Whereas, the Halifax Resolves was the first authoritative, explicit declaration, by any colony in favor of full, final separation from Britain; and

Whereas, the members of the Fourth Provincial Congress were already determined on the course of independence and knew other colonies were likewise so determined; and

Whereas, the said members forbore to take unilaterally an action which they conceived ought to be taken by all 13 colonies acting in unison; and

Whereas, by such forbearance they set the example for American unity in defense of American liberty; and

Whereas, such examples led ultimately to the winning of American independence and to the establishment of the oldest surviving constitutional republic in the world; and

Whereas, the examples set at Halifax on April 12, 1776, ought ever to be an inspiration and model for all North Carolinians and Americans; and

Whereas, April 12 of every year has been designated as Halifax Day; and

Whereas, the importance of the adoption of the Halifax Resolves to this State and Nation is emphasized by placing the date of their adoption on the flag of North Carolina along with the date of the signing of another great document of freedom—The Mecklenburg Declaration of Independence; and

Whereas, the date of the adoption of the Halifax Resolves ought to be commemorated on the Great Seal of North Carolina as a constant reminder of the people of this State's commitment to liberty;

The General Assembly of North Carolina enacts:

Section 1. The third sentence of the second paragraph of G.S. 147-26 is deleted and the following inserted:

"The date 'May 20, 1775' shall appear within the seal and across the top of the seal. The date 'April 12, 1776' shall appear within the seal and across the bottom of the seal. The words 'esse quam videri' shall appear at the bottom around the perimeter."

Sec. 2. This act shall not invalidate any Seal presently on display or heretofore used.

Sec. 3. This act shall become effective on January 1, 1984.

In the General Assembly read three times and ratified, this the 2nd day of May, 1983.

S. B. 271 **CHAPTER 258**

AN ACT TO AMEND G.S. 113-229 RELATING TO PERMITS, APPEALS, AND HEARINGS REGARDING DREDGING AND FILLING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-229(e) is amended by rewriting the last sentence to read:

"The Department shall act on an application for permit within 75 days after the completed application is filed, provided the Department may extend such deadline by not more than an additional 75 days if necessary properly to consider the application, except for applications for a special emergency permit, in which case the Department shall act within two working days after an application is filed, and failure to so act shall automatically approve the application."

Sec. 2. G.S. 113-229(f) is rewritten to read:

"(f) Any person who is directly affected by a permit decision under G.S. 113-229(e) or (e1) may submit a written request, within 20 days of such action, for a hearing before the Coastal Resources Commission. Requests for hearings by any person other than the applicant shall be reviewed by the Commission or its duly authorized agent according to G.S. 113A-121(c) to determine whether a hearing should be granted. Pending final disposition of any such review by the Commission, no action shall be taken which would be unlawful in the absence of a permit. In cases where the request for a hearing has been denied, development authorized by the permit may be undertaken unless prohibited by an order of the superior court."

Sec. 3. G.S. 113-229(g) is rewritten to read:

"(g) Appeals to the Coastal Resources Commission of permit decisions under this section shall follow the procedures and requirements set forth in G.S. 113A-122."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1983.

S. B. 224 **CHAPTER 259**

AN ACT TO REDEFINE THE TERMS "DETECTION OF DECEPTION EXAMINER" AS USED IN THE PRIVATE PROTECTIVE SERVICES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74C-3(a)(5) is rewritten to read:

"(5) 'Detection of deception examiner' means any person, firm, association, or corporation which uses any device or instrument, regardless of its name or design, for the purpose of the detection of deception or any person who reviews the work product of an examiner including charts, tapes or other methods of record keeping for the purpose of detecting deception or determining accuracy."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1983.

H. B. 585 CHAPTER 260

AN ACT REGARDING JURISDICTION OF THE PINEHURST POLICE.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 1168, Session Laws of 1979 (1980 Session), is repealed.

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 5th day of May, 1983.

H. B. 593 CHAPTER 261

AN ACT TO AUTHORIZE DAY-CARE LICENSING INSPECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 110, Article 7, is amended by adding a new section to read:

"§ 110-105. *Authority to inspect facilities.*—(a) The Commission shall adopt standards, rules and regulations under this subsection which provide for the following types of inspections:

(1) an initial licensing or certification inspection, which shall not occur until the administrator of the facility receives prior notice of the initial inspection or certification visit;

(2) a plan for routine inspections of all facilities, which shall be confidential unless a court orders its disclosure, and which shall be conducted without prior notice to the facility;

(3) an inspection that may be conducted without notice, if there is probable cause to believe that an emergency situation exists or there is a complaint alleging a violation of licensure law.

The Secretary or his designee, upon presenting appropriate credentials to the operator of the day-care facility, is authorized to perform inspections in accordance with the standards, rules and regulations promulgated under this subsection.

(b) If an operator refuses to allow the Secretary or his designee to inspect the day-care facility, the Secretary shall seek an administrative warrant in accordance with G.S. 15-27.2."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 5th day of May, 1983.

H. B. 608 CHAPTER 262

AN ACT TO PROVIDE AN ADDITIONAL MEMBER ON THE EDGECOMBE COUNTY BOARD OF EDUCATION AND TO PROVIDE FOR THE NOMINATION AND ELECTION OF MEMBERS OF THE EDGECOMBE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Edgecombe County Board of Education shall consist of seven members who shall serve for terms of four years each, except as hereinafter set forth.

Sec. 2. (a) For the purpose of electing members of the Edgecombe County Board of Education, the Edgecombe County School Administrative Unit is divided into three zones bounded and described as follows:

Zone No. 1. Northern Attendance Zone
Zone No. 2. Southern Attendance Zone
Zone No. 3. Western Attendance Zone

(b) There shall be two members on the Edgecombe County Board of Education elected to represent Zone No. 1, Northern Attendance Zone, two members elected to represent Zone No. 2, Southern Attendance Zone, and two members elected to represent Zone No. 3, Western Attendance Zone.

(c) There shall be one member on the Edgecombe County Board of Education elected to represent the Edgecombe County School Administrative Unit at-large.

(d) All members of the Edgecombe County Board of Education shall be residents of the zone which they are elected to represent; except, however, the at-large member may reside anywhere within the Edgecombe County School Administrative Unit.

Sec. 3. The remainder of the current terms of office of Joe W. Dickens and Joe Pat Tolson shall not be affected by this act. Joe W. Dickens shall represent Zone No. 1, Northern Attendance Zone, for the remainder of his current term of office. Joe Pat Tolson shall represent Zone No. 2, Southern Attendance Zone, for the remainder of his current term of office.

Sec. 4. (a) In the primary election to be held in Edgecombe County in 1984, there shall be elected five members of the Edgecombe County Board of Education. One member shall be a resident of and shall be elected to represent Zone 1, Northern Attendance Zone, for a term of four years. One member shall be a resident of and shall be elected to represent Zone 2, Southern Attendance Zone, for a term of four years. One member shall be a resident of and shall be elected to represent Zone 3, Western Attendance Zone, for a term of four years. One member shall be a resident of and shall be elected to represent Zone 3, Western Attendance Zone, for a term of two years. One member shall be elected to represent the Edgecombe County School Administrative Unit at-large for a term of four years.

(b) In the primary election to be held in Edgecombe County in 1986, there shall be elected three members of the Edgecombe County Board of Education. One member shall be a resident of and shall be elected to represent Zone 1, Northern Attendance Zone, for a term of four years. One member shall be a resident of and shall be elected to represent Zone 2, Southern Attendance Zone, for a term of four years. One member shall be a resident of and shall be elected to represent Zone 3, Western Attendance Zone, for a term of four years.

(c) Biennially thereafter, as the terms of office of the members of the Edgecombe County Board of Education shall expire, there shall be elected for terms of four years each a successor to fill each vacancy occurring by reason of expiration of office, so that, every two years one member from each of the herein established zones shall be elected to serve for a term of four years and that every four years an at-large member shall be elected to serve for a term of four years. Each successor member so elected shall be a resident of the zone of the member he is elected to succeed; except, however, a successor at-large member need not be a resident of the zone of the at-large member he is elected to succeed.

Sec. 5. All candidates for election to membership on the Edgecombe County Board of Education shall be residents of the zone which they seek to represent and shall file with the Board of Elections of Edgecombe County a notice of candidacy which shall state the candidate's name, address, exact place of residence, the zone which he seeks to represent and that he is a candidate for membership on the Edgecombe County Board of Education for the zone in which he resides; except, however, all candidates for the at-large membership on the Edgecombe County Board of Education shall file with the Board of Elections of Edgecombe County a notice of candidacy which shall state the candidate's name, address, exact place of residence and that he is a candidate for the at-large membership on the Edgecombe County Board of Education. For the 1984 election only, each candidate for membership from Zone 3, Western Attendance Zone, shall state whether he is seeking election for the two-year term of office or for the four-year term of office.

Sec. 6. The members of the Edgecombe County Board of Education shall be elected on a nonpartisan basis at the time of the primary election. The Board of Elections of Edgecombe County shall prepare a separate ballot for the election of said members which shall not make reference to any party affiliation but which shall contain, among other things, the names of the candidates and the zones for which they are seeking election, or in the case of the at-large membership, that they are seeking election to said at-large membership. For the 1984 election only, the ballot shall further provide that one membership from Zone 3, Western Attendance Zone, shall be for a two-year term of office and that one membership from said zone shall be for a four-year term of office. All candidates for membership on the Edgecombe County Board of Education shall be voted on at-large by the qualified voters of Edgecombe County and any qualified voter residing in the Edgecombe County School Administrative Unit shall be entitled to vote such ballots. The Board of Elections of Edgecombe County shall canvass and judicially determine the results of said election and declare the members so elected. The candidates receiving the highest number of votes for each particular zone and for the at-large membership shall be declared to be elected.

It is the intent and purpose of this act that the members of the Edgecombe County Board of Education shall be elected in the primary election and there shall be no further election in the general election. The members so elected shall take the oath of office on the next succeeding first Monday in December following their election. All persons so elected shall serve until their successors are elected and qualified and any vacancy occurring on the Edgecombe County Board of Education by death, resignation or otherwise shall be filled by the remaining members of the Edgecombe County Board of Education for the unexpired term, but the person appointed to fill such vacancy must be from the same zone as the person whose death, resignation or removal created said vacancy, except in the case of the at-large membership, in which case this requirement does not apply. In the event that the remaining members of the Edgecombe County Board of Education do not act regarding such a vacancy within 30 days, the vacancy shall be filled by the North Carolina State Board of Education in accordance with the heretofore stated requirements. If there is no candidate for election from a zone or zones this shall constitute a vacancy which shall be filled as hereinabove provided.

Sec. 7. The election of said members of the Edgecombe County Board of Education in the various primary elections as hereinabove provided shall be governed by Chapter 163 of the General Statutes, relating to primaries and elections insofar as the same may be applicable and not in conflict with the express terms of this act. The Board of Elections of Edgecombe County is hereby authorized and empowered to create any necessary precincts, to appoint any necessary election officials and to set up and establish all necessary books and records for the conduct of said election in said primary.

Sec. 8. The zones established by this act shall be coterminous with the respective school attendance zones as are more particularly described according to the map of same, copies of which are on file with the Edgecombe County Board of Education and the Board of Elections of Edgecombe County.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1983.

H. B. 611 CHAPTER 263

AN ACT TO PROVIDE THAT THE COMPENSATION OF THE CUMBERLAND COUNTY BOARD OF EDUCATION WILL BE SET BY GENERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 308, Session Laws of 1979 is repealed.

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 5th day of May, 1983.

H. B. 669 CHAPTER 264

AN ACT TO ESTABLISH RESPONSIBILITY FOR DIRT, MUD, AND OTHER DEBRIS ON PUBLIC ROADWAYS AND SIDEWALKS AS A RESULT OF CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. Purpose. The purpose of this act is to authorize a county to control the depositing of dirt, mud, construction materials, or any other debris on public roadways and sidewalks. This act will reduce the road and sidewalk hazards, the possible problems relating to the storm sewer systems, the air pollution hazards, and the other health hazards.

Sec. 2. A county is hereby authorized by ordinance to make it unlawful for any contractor, firm, corporation, or individual in charge of a construction project, work site, or unpaved public vehicular parking lot, or any individual who undertakes on his own the removal and/or conveyance of any dirt, mud, construction materials or any other debris to allow any dirt, mud, construction materials, or other debris to be deposited upon any public roadway or sidewalk.

Sec. 3. This act applies only to Mecklenburg County.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1983.

H. B. 765 CHAPTER 265

AN ACT TO ALLOW PRINCEVILLE TO ENTER INTO CONTRACTS FOR THE REDEVELOPMENT OF LAND, DISPOSE OF LAND AT PRIVATE SALE AND ALLOWING THE TOWN TO APPROVE A NONPROFIT CORPORATION WHICH MAY ISSUE BONDS AND LEND THE PROCEEDS TO A DEVELOPER, RELATING TO REDEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 346, Session Laws of 1973, as amended by Chapter 379, Session Laws of 1975, Chapter 76, Session Laws of 1977, and Chapter 1116, Session Laws of 1979, is further amended by adding immediately after the words "Town of Tarboro," the words "Town of Princeville,".

Sec. 2. Section 3 of Chapter 1115, Session Laws of 1979, and Section 3 of Chapter 748, Session Laws of 1981, are each rewritten to read:

"Sec. 3. This act applies only to the Town of Tarboro and the Town of Princeville".

Sec. 3. This act is effective upon ratification, and also applies to the 1980 and 1982 Community Revitalization Projects.

In the General Assembly read three times and ratified, this the 5th day of May, 1983.

H. B. 788 CHAPTER 266

AN ACT TO ALLOW THE MAYOR OF THE CITY OF NEW BERN TO VOTE ON ALL MATTERS BEFORE THE BOARD OF ALDERMEN.

The General Assembly of North Carolina enacts:

Section 1. The next to the last sentence of Section 6 of Chapter 1281, Session Laws of 1957, being the Charter of the City of New Bern, is rewritten to read:

"The Mayor shall have the right to vote on any question before the board of aldermen, and shall do so as if he were a member of the board."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1983.

S. B. 37 CHAPTER 267

AN ACT TO ESTABLISH A COMPUTER COMMISSION AND TO GIVE THIS COMMISSION AUTHORITY OVER INFORMATION PROCESSING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-341(9) is rewritten to read:

"(9) Information Processing Services. With respect to all executive departments and agencies of State government, except the Department of Justice and The University of North Carolina:

a. To establish and operate information processing centers and services to serve two or more departments on a cost-sharing basis, if the Computer Commission decides it is advisable from the standpoint of efficiency and economy to establish these centers and services;

b. With the approval of the Computer Commission, to charge, on a time basis, each department for which services are performed its proportionate part of the cost of maintaining and operating the shared centers and services;

c. With the approval of the Computer Commission, to require any department served to transfer to the Department of Administration ownership, custody, or control of information processing equipment, supplies, and positions required by the shared centers and services;

d. With the approval of the Computer Commission, to adopt reasonable rules for the efficient and economical management and operation of the shared centers and services;

e. With the approval of the Computer Commission, to adopt plans, policies, procedures, and rules for the acquisition, management, and use of information processing equipment and personnel in the departments affected by this subdivision to facilitate more efficient and economic use of information processing resources in these departments; and

f. To develop and promote training programs to improve the technical and managerial capability of personnel in information processing functions.

No data of a confidential nature, as defined in the General Statutes or federal law, may be entered into or processed through any cost-sharing information processing center established under this subdivision until safeguards for the data's security satisfactory to the department head and the Secretary of Administration have been designed and installed and are fully operational. Nothing in this section may be construed to prescribe what programs to satisfy a department's objectives are to be undertaken, nor to remove from the control and administration of the departments the responsibility for program efforts, regardless whether these efforts are specifically required by statute or are administered under the general program authority and responsibility of the department. This subdivision does not affect the provisions of G.S. 147-58 or G.S. 143-340(14). Notwithstanding any other provision of law, the Department of Administration shall provide information processing services on a cost-sharing basis to the General Assembly and its agencies as requested by the Legislative Services Commission."

Sec. 2. Article 9 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 23.

"Computer Commission.

"§ 143B-426.21. *Computer Commission.*—(a) Creation; membership. The Computer Commission is created in the Department of Administration. The Commission consists of the following ex officio members: the Governor, Lieutenant Governor, Secretary of the Department of Administration, State Budget Officer, State Auditor, State Treasurer, Secretary of State, Superintendent of Public Instruction, Commissioner of Agriculture, Commissioner of Labor, Commissioner of Insurance, State President of the Department of Community Colleges and the Legislative Services Officer or his designee. The Governor shall chair the Commission and the Secretary of Administration shall be secretary to the Commission. The Commission shall meet at the call of the chairman or at the request of a majority of its members. The Department of Administration shall provide clerical and other services required by the Commission.

(b) Powers and duties. The Commission has the following powers and duties:

(1) to approve or disapprove proposals by the Department of Administration under G.S. 143-341(9);

(2) to obtain information relevant to the decisions required of the Commission under G.S. 143-341(9) from the affected departments; and

(3) to develop a comprehensive five-year plan for the acquisition and use of information processing resources in the affected departments, which shall be updated annually and shall be submitted to the General Assembly on the first day of each regular session."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

S. B. 103 CHAPTER 268

AN ACT TO EXTEND THE MENTAL HEALTH STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Mental Health Study Commission, established and structured by 1973 General Assembly Resolution 80; Chapter 806, 1973 Session Laws; Chapter 185, 1975 Session Laws; Chapter 184, 1977 Session Laws; Chapter 285, 1979 Session Laws; 1979 General Assembly Resolution 20; Chapter 49, 1981 Session Laws, is revived and authorized to continue in existence until July 1, 1985.

Sec. 2. The continued Mental Health Study Commission shall have all the powers and duties of the original Study Commission as they are necessary to continue the original study, to assist in the implementation of the original and succeeding Study Commission recommendations and to plan further activity on the subject of the study.

Sec. 3. Members of the present Mental Health Study Commission shall remain members of the continued Study Commission, but they shall serve at the pleasure of the person holding the office authorized to make the original appointment. Members of the General Assembly who are not reelected shall not be disqualified from membership on the continued Study Commission because they are no longer members of the General Assembly but the person holding the office authorized to make the original appointment may replace them with new appointees.

Sec. 4. Members and staff of the continued Mental Health Study Commission shall receive compensation and expenses as under the original authorization in the 1973 General Assembly Resolution 80 and the Department of Human Resources is authorized to reallocate fiscal resources under Budget Code (14460-8211) to be the funding source for the Mental Health Study Commission.

Sec. 5. This act will only be effective if funded by an appropriation act.

Sec. 6. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

S. B. 190 CHAPTER 269

AN ACT TO CHANGE THE MITCHELL COUNTY TAX COLLECTOR FROM AN ELECTIVE TO AN APPOINTIVE POSITION.

The General Assembly of North Carolina enacts:

Section 1. Section 7 of Chapter 973, Session Laws of 1967 is amended by deleting the words "Tax Collector,".

Sec. 2. No Tax Collector shall be elected by the voters of Mitchell County in 1984 or thereafter.

Sec. 3. A Tax Collector shall be appointed by the Mitchell County Board of Commissioners under G.S. 105-349 on or after the first Monday in December of 1984. The current Tax Collector of Mitchell County shall serve until that date and until his successor is appointed and qualified. Any vacancy in the office of Mitchell County Tax Collector occurring before the first Monday in December of 1984 shall be filled by an appointment by the Mitchell County Board of Commissioners to serve the remainder of the unexpired term.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

S. B. 201 CHAPTER 270

AN ACT TO AMEND THE RESTRICTIONS ON FORCE ACCOUNT WORK AS APPLIED TO THE CITY OF MONROE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-135, as it appears in the 1981 Cumulative Supplement, is amended by inserting immediately after the word "concerned" in line 6 the words, "or when the work is performed by appointed agents of the agency using labor crews and equipment leased on a per diem basis pursuant to informal bids under G.S. 143-131."

Sec. 2. This act applies only to the City of Monroe.

Sec. 3. This act shall become effective June 5, 1983, and shall expire June 5, 1985.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

S. B. 231 CHAPTER 271

AN ACT TO ALLOW THE RUTHERFORD COUNTY BOARD OF COMMISSIONERS TO ESTABLISH A COUNTY POLICE FORCE.

The General Assembly of North Carolina enacts:

Section 1. The Rutherford County Board of Commissioners is authorized to establish a county police force, to appoint a police chief, to employ other police officers, and to establish the jurisdiction of the county police force within Rutherford County, effective on or after the first Monday in December of 1986.

Sec. 2. Pursuant to this act and other provisions of law, the Rutherford County Board of Commissioners shall adopt and promulgate rules governing the establishment and operation of the Rutherford County police force. Such rules

shall be filed with the clerk to the Board of County Commissioners and shall be made available for public inspection at reasonable times.

Sec. 3. (a) The Rutherford County Board of Commissioners may put the question of establishing a county police force to a referendum of the qualified voters of Rutherford County. The referendum shall be conducted by the Rutherford County Board of Elections under the provisions of Chapter 163 of the General Statutes.

(b) The questions on the ballot shall be:

"□ FOR establishment of a county police force.

□ AGAINST establishment of a county police force."

(c) If the Rutherford County Board of Commissioners chooses to hold a referendum under this section and a majority of the voters vote "FOR establishment of a county police force", then the Rutherford County Board of Commissioners shall appoint a county police force under Sections 1 and 2 of this act.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

H. B. 570 CHAPTER 272

AN ACT TO AMEND THE CHARTER OF THE CITY OF RALEIGH, CONCERNING RESERVATION OF SITES AND CONCERNING STREET CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. Section 22 of Chapter 1184 of the Session Laws of North Carolina, 1949, as amended, the Charter of the City of Raleigh, is amended by adding the following new subdivisions:

"(78) To adopt ordinances providing for the reservation of sites for public buildings or rights-of-way for public facilities and utilities including but not limited to fire stations, police stations, streets, water systems and sanitary sewer systems. The City Council after recommendation by the planning commission shall determine the location and size of any such reservations and shall cause those locations to appear on the City's comprehensive land use plan. If the City enacts ordinances pursuant to this authority those ordinances shall provide, in part, that any subdivision submitted for approval which includes any such reservation or any request for a building permit not involving subdivision approval which includes such a reservation, the administrative official charged with receiving such request shall give notice of the request to the City Council at its next regularly scheduled meeting. The Council shall decide at that meeting whether it still wishes to require the reservation. If the Council does wish the reservation, it shall have a period of seven months in which to acquire the reserved area by purchase or by eminent domain. If the Council has not purchased the reservation interest or begun condemnation proceedings within the seven-month period, the subdivider or building permit applicant may treat the land as freed of the reservation.

(79) To construct streets outside the corporate limits but within its extraterritorial jurisdiction. Such a street may be built only after a finding by the City Council that the street is essential to the operation of an orderly transportation system for the City and the surrounding urbanized area. Upon

annexation of any area in which such streets are located, the City is authorized to make special assessments against the property benefited by the improvements which were installed prior to the annexation. The City is also authorized to reimburse for overwidth streets those who build streets outside the City limits but within the extraterritorial jurisdiction for the City through the subdivision process or any other development process. In order to effect this reimbursement the City is authorized to establish reimbursement zones and to determine reimbursement rates for each zone."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

H. B. 630 CHAPTER 273

AN ACT RESTRICTING THE USE OF LOCAL SALES AND USE TAX REVENUE IN BURKE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. If the voters of Burke County approve the levy of one percent (1%) local sales and use taxes in a special election held pursuant to G.S. 105-465, the Burke County Board of Commissioners shall adopt a resolution levying these taxes. The net proceeds of the revenue produced by these taxes shall not be distributed among the county and its municipalities as provided in G.S. 105-472 but shall be used by the county only for the construction, renovation, repair, or maintenance of public junior high schools in Burke County until one of the following events occurs:

(1) ten years has elapsed since the effective date of the levy of these taxes; or

(2) the amount of local sales and use tax revenue reserved for public junior high schools pursuant to this act equals twenty million dollars ($20,000,000).

When either of these events occurs, the net proceeds of local sales and use taxes thereafter allocated to Burke County and its municipalities by the Secretary of Revenue shall be distributed among the county and its municipalities in accordance with G.S. 105-472. The portion of local sales and use tax revenue received by the county, however, shall be used only for the construction, renovation, repair, or maintenance of public schools in Burke County.

In the resolution levying local sales and use taxes the Burke County Board of Commissioners shall specify the method by which the net proceeds of local sales and use taxes collected in the county shall be distributed among the county and its municipalities upon the occurrence of one of the events listed above.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

H. B. 823 CHAPTER 274

AN ACT TO PROHIBIT HUNTING FROM CERTAIN ROADS IN CAMDEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt, take or kill any animal or bird on or from the right-of-way of S. R. 1239 in Camden County or on or from the right-of-way of S. R. 1224, between the Currituck County line and the intersection with S. R. 1239, in Camden County.

Sec. 2. Violation of this act is a misdemeanor punishable for a first conviction by a fine of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00) or by imprisonment not to exceed 30 days, and punishable for a second or subsequent conviction within three years by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), by imprisonment not to exceed 90 days or by both.

Sec. 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by deputy sheriffs and by other peace officers with general subject matter jurisdiction.

Sec. 4. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

H. B. 331 CHAPTER 275

AN ACT TO CHANGE THE ELIGIBILITY FOR APPOINTMENT OF COUNSEL FOR INDIGENTS FOR REHEARINGS PURSUANT TO CHAPTER 122 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.12(c) is amended by deleting the following words from the first sentence thereof:

"from among those members of the bar who maintain law offices within 20 miles of the regional facility".

Sec. 2. G.S. 122-58.12(c) is further amended by inserting a new sentence immediately preceding the word "Counsel" in the second sentence to read:

"No mileage or compensation for travel time shall be paid to a counsel appointed pursuant to this subsection."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

H. B. 510 CHAPTER 276

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE JUVENILE CODE AS RECOMMENDED BY THE JUVENILE LAW STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-655(2), as it appears in Volume 1B, 1981 Replacement, is amended by rewriting the last line to read:

"supervision, has completed a maximum commitment for his offense, or is 18 years of age."

Sec. 2. G.S. 7A-289.6(1) is rewritten to read:

"(1) To conduct a prehearing social study of any child alleged to be delinquent or undisciplined, provided that no social study shall be made prior to an adjudication that the child is within the juvenile jurisdiction of the court unless the child and his parent or attorney or guardian or custodian files a written statement with the court counselor granting permission and giving consent to such prehearing social study; when such a prehearing social study has been completed, the court counselor shall prepare a written report for the court summarizing the findings which shall contain recommendations as to the type of care and/or treatment needed by the child and which shall be in the form developed by the Administrator for such reports."

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

H. B. 144 CHAPTER 277

AN ACT TO REMOVE MENTAL RETARDATION FROM THE CONDITIONS PROHIBITING A PERSON FROM WORK IN A DAY-CARE CENTER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-90.1 and G.S. 110-91(8) are amended by deleting the phrase "mentally retarded or mentally ill to an extent that may be injurious to children." and substituting "mentally or emotionally impaired to an extent that may be injurious to children."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

H. B. 598 CHAPTER 278

AN ACT TO EXEMPT THE DIVISION OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES FROM THE SOCIAL SERVICES COMMISSION'S TITLE XX RULE MAKING AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-153 (2a)b. is amended by rewriting all the language before subdivision (1) to read:

"b. For implementation of Title XX of the Social Security Act, except for Title XX services provided solely through the Division of Mental Health,

Mental Retardation and Substance Abuse Services, by promulgating rules and regulations in the following areas:".

Sec. 2. G.S. 143B-153(8) is amended by rewriting all the language before sub-part a. to read:

"(8) The Commission may establish by regulation, except for Title XX services provided solely through the Division of Mental Health, Mental Retardation and Substance Abuse Services, rates or fees for:".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

H. B. 674 CHAPTER 279

AN ACT TO CONTROL THE EXPLORATION FOR URANIUM IN THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 74 of the General Statutes is amended by adding the following new Article:

"ARTICLE 8.

"Control of Exploration for Uranium in North Carolina.

"§ 74-75. *Legislative findings; declaration of policy.*—The General Assembly finds that exploration for uranium within the State has the potential to lead to employment opportunities and other economic benefits for the citizens of North Carolina.

However, improper and unregulated exploration for uranium could adversely affect the health, safety and general welfare of the citizens of this State and could cause environmental harm.

The purpose of this act is to assure that such exploration will be accomplished in a manner that protects the environment and the health, safety and welfare of the public.

"§ 74-76. *Definitions.*—Wherever used or referred to in this Article, unless a different meaning clearly appears from the context:

1. 'Commission' means the Mining Commission created by G.S. 143B-290.
2. 'Department' means the Department of Natural Resources and Community Development.
3. 'Land' includes submerged, tidal and esturine lands.
4. 'Exploration activity' means (1) the breaking of the surface soil in order to locate a natural deposit of uranium and to determine its quality and quantity or (2) any activity that is directly connected with the breaking of the surface soil and that is undertaken to facilitate or accomplish the location and analysis of a uranium deposit. Exploration activity does not include an insignificant breaking of the surface soil and extraction of samples by hand tools for exploration purposes. This Article shall in no way limit or restrict the applicability of the Mining Act of 1971 to any activity that satisfies the definition of mining in that act.

"§ 74-77. *Permit requirement.*—No person shall engage in exploration activity for the discovery of uranium without having first obtained from the Department an exploration permit which covers the affected land and which has not terminated, been revoked, or otherwise become invalid.

"§ 74-78. *Permits, application, granting, terms, duration, renewal.*—(a) A person desiring to engage in exploration activities for discovery of uranium shall make written application to the Department for an exploration permit. An application shall be upon a form furnished by the Department and shall fully state the information called for. In addition, the applicant may be required to furnish any other information the Department deems necessary in order to enforce this Article.

The application shall be accompanied by a signed agreement, in form specified by the Department, that in the event a bond or other security forfeiture is ordered pursuant to G.S. 74-81, the Department and its representatives and contractors may make any necessary entries on the land and take any necessary action to carry out abandonment procedures not completed by the permit holder.

The Department shall also notify the Radiation Protection Commission of the Department of Human Resources of the application and request its views and comments on the application.

The applicant shall make a reasonable effort, satisfactory to the Department, to notify all owners of record of land adjoining the proposed site and the chief administrative officer of the county or municipality in which the proposed site is located that he intends to explore for uranium on the site.

(b) The Department shall deny an application upon finding:

(1) That the proposed exploration activity will or is likely to violate any requirement of this Article or any rule promulgated under it; or

(2) That the person seeking to conduct the exploration activity has not corrected all violations which he committed under a prior uranium exploration permit. In the absence of any such findings, a permit shall be granted.

The Department shall grant or deny the permit as expeditiously as possible, but in no event later than 60 days after the filing of the application and of any reasonably required supplementary information.

(c) A permit may be conditioned upon any reasonable requirements and safeguards the Department deems necessary to assure that exploration activity will comply fully with the requirements and objectives of this Article and of other applicable State environmental and public health laws.

The Department shall set the amount of the performance bond or other security required pursuant to G.S. 74-79. The applicant shall have 30 days following the mailing of notification of the bond or security requirement in which to deposit the required bond or security with the Department. The exploration permit shall be issued upon timely receipt of this deposit.

(d) Exploration permits shall be valid for a period of one year. Permits may be renewed annually upon a showing that the person conducting exploration activity has complied with this Article, the rules promulgated under it, and the terms of his permit. Renewal applications shall be upon a form furnished by the Department and shall state the information called for, as well as other information the Department deems necessary.

"§ 74-79. *Bonds.*—Each applicant for an exploration permit shall file with the Department following approval of his application and shall thereafter maintain in force a bond or other security in favor of the State of North Carolina. The bond or other security shall be acceptable to the Department and shall be in an amount determined by the Department based upon a schedule established by

the Commission. That schedule shall provide for bond or other security at a level that will allow the Department, through whatever reasonable means it chooses, to perform the abandonment and other work required by this Article. The bond or other security shall be continuous in nature and shall remain in force until cancelled by the guarantor. Cancellation shall be effectuated upon written notice thereof by certified mail, return receipt requested, to the Department and to the permit holder, and shall be effective no sooner than 60 days following receipt by the Department and the operator.

The bond or other security shall be conditioned upon the faithful performance of the requirements set forth in this Article and of the rules adopted pursuant to it. Liability under the bond or other security shall remain in effect until completion of abandonment or until substitution of a good and sufficient bond or other security acceptable to the Department. In no event shall the liability of the surety exceed the amount of the bond or other security required by this section.

If notice of impending cancellation is issued by the surety, or if for any reason, the bond or other security provided is suspended or revoked or ceases to be effective, the permit holder shall, within 30 days of receipt of notice thereof, substitute a good and sufficient bond or other security acceptable to the Department. Upon failure of the permit holder to make the required substitution, his permit shall automatically become void and of no effect. Any continuation of exploration after the permit becomes void and ineffective shall make him subject to all sanctions and remedies afforded by this Article.

"§ 74-80. *Abandonment.*—All exploration holes shall be abandoned by adequately plugging them with cement from the bottom of the hole upward to a point three feet below ground surface. The remainder of the hole between the top of the plug and the surface shall be filled with cuttings or nontoxic material.

If multiple aquifers are encountered that have alternating usable quality water and salt water zones, or if other conditions determined by the Department to be potentially deleterious to surface or ground water are encountered, the conditions must be isolated immediately by cement plugs. Each such hole shall be plugged with cement to prevent water from flowing into or out of the hole or mixing within the hole. Usable quality water is ground water that is used or can be used for a beneficial purpose, including, domestic, livestock, irrigation or industrial uses.

Alternative plugging procedures and materials may be utilized when the applicant has demonstrated to the Department's satisfaction that the alternatives will protect ground waters and comply with the provisions of this Article. In the event that a hole is more suitably plugged with a nonporous material other than cement, the material shall have sealing and lasting characteristics at least equal to cement.

All other excavations or disturbances made in connection with exploration activities shall be adequately reclaimed so as to protect the natural resources of the surrounding area and to prevent the release of toxic substances.

Abandonment shall be undertaken as soon as practicable after exploration, except if multiple aquifers or other conditions potentially deleterious to surface or ground water are encountered. In any event, all abandonment shall be accomplished no later than 30 days following completion of exploration activity in an area of affected land.

"§ 74-81. *Inspection and approval of abandonment, bond release and forfeiture.*—Upon completion of abandonment of an area of affected land, the permit holder shall notify the Department on a form and in a manner it shall require. Upon receipt of the report, and at any other time it deems reasonable, the Department shall make an inspection of the area to determine whether the permit holder has complied with the requirements of this Article, any rules promulgated under it and the terms and conditions of his permit. Following its inspection, the Department shall give written notice to the permit holder of any deficiencies noted. The permit holder shall commence action within 10 days of receipt of notice to rectify these deficiencies and shall diligently proceed to correct them. The Department may extend the 10-day performance period if it finds that the permit holder is making every reasonable effort to comply.

Whenever the Department finds that the person conducting exploration activity has failed to properly abandon an area of affected land within the time allowed by G.S. 74-80 and has failed to undertake timely corrective actions following notice, it shall initiate forfeiture proceedings against the bond or other security filed pursuant to G.S. 74-79.

If the Department finds that abandonment has been properly completed, it shall so notify the person conducting the exploration activity in writing within 10 days after that finding and release him from further obligations under this Article. At the same time it shall release all or the appropriate portion of the bond or other security that has been provided.

"§ 74-82. *Suspension, revocation or modification of permit.*—The Department may revoke, suspend or modify a permit for violations of this Article, any rules promulgated under it, or other terms or conditions of the permit. This authority is subject to the 'Special Provisions on Licensing' of G.S. 150A-3.

"§ 74-83. *Forfeiture proceedings.*—Whenever the Department determines the necessity of a bond or other security forfeiture under the provisions of G.S. 74-81, or whenever it revokes, suspends or modifies a permit under the provisions of G.S. 74-82, it shall request the Attorney General to initiate forfeiture proceedings against the bond or other security filed by the permit holder: Provided, however, that no such request shall be made for forfeiture of a bond or other security until the guarantor has been given written notice of the violation and a reasonable opportunity to take corrective action. These proceedings shall be brought in the name of the State of North Carolina. In these proceedings, the face amount of the bond or other security, less any amount previously released by the Department, shall be treated as liquidated damages and subject to forfeiture. All funds collected as a result of these proceedings shall be placed in a special fund and used by the Department to carry out, to the extent possible, the abandonment measures which the permit holder has failed to complete. If the amount of the bond or other security filed pursuant to this section proves to be insufficient to complete the required abandonment, the permit holder shall be liable to the Department for any excess above the amount of the bond or other security which may be required to defray the cost of completing the required reclamation.

"§ 74-84. *Notice.*—Whenever in this Article written notice is required to be given by the Department, such notice, unless otherwise provided, shall be mailed by registered or certified mail to the permanent address of the person set

forth in his most recent application for an exploration permit. No other notice shall be required.

"§ 74-85. *Hearings; appeals.*—Any affected person wishing to contest the decision of the Department which approves, denies, suspends or revokes a permit, required additional abandonment work, refuses to release any or all of the bond or other security, or assesses a civil penalty, shall be entitled to an administrative hearing before the Mining Commission conducted in accordance with the provisions of Article 3 of Chapter 150A of the General Statutes. Appeal of the final decision of the Mining Commission shall be in accordance with the procedures established in Article 4 of Chapter 150A of the General Statutes. Requests for an administrative hearing must be made in writing and served upon the Mining Commission by serving the Department, within 30 days of receipt of notice of the action giving rise to the hearing.

"§ 74-86. *Rules and regulations.*—The Mining Commission may promulgate any rules necessary to administer and carry out the purposes of this Article.

"§ 74-87. *Penalty for violations.*—(a) Civil Penalties.

(1) a. A civil penalty of not more than five thousand dollars ($5,000) may be assessed by the Department against any person who fails to secure a valid exploration permit prior to engaging in the exploration for uranium, as required by G.S. 74-48. Each day of continuing violation shall constitute a separate violation and a civil penalty of not more than five thousand dollars ($5,000) per day may be assessed for each day the violation continues.

b. Any person with an exploration permit who violates any of the provisions of this Article, any rules promulgated under it, or any of the terms and conditions of his exploration permit shall be subject to a civil penalty of not more than two hundred fifty dollars ($250.00). Each day of a continuing violation shall constitute a separate violation. Prior to the assessment of any civil penalty, written notice of the violation shall be given pursuant to G.S. 74-84. The notice shall describe the violation with reasonable particularity, shall specify a time period reasonably calculated to permit the violator to complete actions to correct the violations, and shall state that failure to correct the violations within that period will be considered an aggravating factor in the determination of the amount of the civil penalty, if any, to be assessed.

(2) The Department shall determine the amount of the civil penalty to be assessed. In determining the amount of the penalty, the Department shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by his noncompliance, the violator's state of mind in committing the violation, the prior record of the violator in complying or failing to comply with this Article, and any corrective action taken by the violator. The Department shall notify the person conducting exploration activity of the assessment of the civil penalty by certified mail, return receipt requested or by other reasonable means calculated to provide actual notice. This notice shall describe the violations for which the civil penalty has been assessed. The person conducting exploration activity may appeal the assessment of any civil penalty

assessed pursuant to this section in accordance with the procedures set forth in G.S. 74-85.

(3) If payment of any civil penalty assessed pursuant to this section is not received by the Department or if no administrative hearing is requested within 30 days following notice to the person of the assessment of the civil penalty, or within 30 days following denial of appeal pursuant to G.S. 74-85, the Department shall refer the matter to the Attorney General for the institution of a civil action in the name of the State in the superior court of the county in which the violation is alleged to have occurred to recover the amount of the penalty.

(4) All funds collected pursuant to this section shall be placed in a special fund and shall be used to carry out the purposes of this Article.

(b) Injunctive Relief. In addition to other remedies, the Department may request the Attorney General to institute any appropriate action or proceedings to prevent, restrain, correct or abate any violation of this Article or any rules promulgated under it.

(c) Criminal Penalties. In addition to other penalties provided by this Article, any person who engaged in exploration activity in willful violation of the provisions of this Article or of any rules promulgated under it or who willfully misrepresented any material fact in any action taken pursuant to this Article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) for each offense. Each day of continued violation after written notification shall be considered a separate offense.

"§ 74-88. *Confidentiality of logs, surveys, and reports.*—If a person engaged in uranium exploration shows to the satisfaction of the Department that logs, surveys plats, and reports filed under this act are of a proprietary nature relating to his competitive rights, that information shall be confidential and not subject to inspection and examination (as authorized by G.S. 132-6) for four years after receipt of the information by the Department. Further, upon written request of any such person, and a showing of a continued proprietary interest affecting competitive rights, the Department shall hold the material confidential for additional two-year periods. Nothing in this section shall be construed to deny the North Carolina Geological Survey access to all logs, plats, and reports filed under this Chapter. The North Carolina Geological Survey shall be bound to hold this information confidential to the same extent that the Department is bound.

"§ 74-89. *Delay before mining permits issued.*—No permit for the mining of uranium shall be issued to an applicant for either three years, beginning with the date of issuance of his first permit to explore for uranium, or for two years, beginning with the date of the filing of his first application for a permit to mine uranium, whichever comes first."

Sec. 2. G.S. 143B-290(1) is amended by adding the following new subpart:

"e. To promulgate rules and regulations necessary to adminster the Control of Exploration for Uranium in North Carolina Act of 1983, pursuant to G.S. 74-86."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

H. B. 676 CHAPTER 280

AN ACT TO AMEND THE DEFINITION OF CATCHMENT AREA.

The General Assembly of North Carolina enacts:

Section 1. General Statute 122-35.36(4) is rewritten to read as follows:

"(4) Catchment Area. A geographic portion of the State served by a specific area mental health, mental retardation and substance abuse authority."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

H. B. 689 CHAPTER 281

AN ACT TO INSURE PRIVACY OF AREA MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE AUTHORITY EMPLOYEE PERSONNEL RECORDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122 is amended by adding a new section 122-35.45.1 as follows:

"§ 122-35.45.1. *Privacy of personnel records.*—(a) Notwithstanding the provisions of G.S. 132-6 or any other general law or local act concerning access to public records, personnel files of employees, former employees, or applicants for employment maintained by an area mental health, mental retardation and substance abuse authority are subject to inspection and may be disclosed only as provided by this section. For purposes of this section, an employee's personnel file consists of any information in any form gathered by the area mental health, mental retardation and substance abuse authority with respect to that employee and, by way of illustration but not limitation, relating to his application, selection or nonselection, performance, promotions, demotions, transfers, suspension and other disciplinary actions, evaluation forms, leave, salary, and termination of employment. As used in this section, 'employee' includes former employees of the area mental health, mental retardation and substance abuse authority.

(b) The following information with respect to each employee is a matter of public record; name; age; date of original employment or appointment to the area mental health, mental retardation and substance abuse authority; current position title; current salary; date and amount of most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation or other change in position classification; and the office to which the employee is currently assigned. The local governing board shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, examination and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the local governing board may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders.

(c) All information contained in an employee's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances:

(1) The employee or his duly authorized agent may examine portions of his personnel file except (i) letters of reference solicited prior to employment, and (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.

(2) A licensed physician designated in writing by the employee may examine the employee's medical record.

(3) An area mental health, mental retardation and substance abuse authority employee having supervisory authority over the employee may examine all material in the employee's personnel file.

(4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.

(5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be inspected to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.

(6) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions or other persons specified in the release.

(7) The local governing board may inform any person of the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of an employee and the reasons for that personnel action. Before releasing the information, the board shall determine in writing that the release is essential to maintaining public confidence in the administration of services or to maintaining the level and quality of services. This written determination shall be retained as a record for public inspection and shall become part of the employee's personnel file.

(d) Even if considered part of an employee's personnel file, the following information need not be disclosed to an employee nor to any other person:

(1) Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the area mental health, mental retardation and substance abuse authority service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.

(2) Investigative reports or memoranda and other information concerning the investigation of possible criminal action of an employee, until the

investigation is completed and no criminal action taken, or until the criminal action is concluded.

(3) Information that might identify an undercover law enforcement officer or a law enforcement informer.

(4) Notes, preliminary drafts and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

(e) The area board may permit access, subject to limitations they may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that person certifies that he will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the area mental health, mental retardation and substance abuse authority as long as each personnel file so examined is retained.

(f) The area board of area mental health, mental retardation and substance abuse authority that maintains personnel files containing information other than the information mentioned in subsection (b) of this section shall establish procedures whereby an employee who objects to material in his file on grounds that it is inaccurate or misleading may seek to have the material removed from the file or may place in the file a statement relating to the material.

(g) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this section, is guilty of a misdemeanor and upon conviction shall be fined an amount of not more then five hundred dollars ($500.00).

(h) Any person, not specifically authorized by this section to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not in excess of five hundred dollars ($500.00)."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

S. B. 253 CHAPTER 282

AN ACT TO AMEND CHAPTER 104D OF THE GENERAL STATUTES TO ENTER INTO THE SOUTHERN STATES ENERGY COMPACT AND TO ESTABLISH THE SOUTHERN STATES ENERGY BOARD.

The General Assembly of North Carolina enacts:

Section 1. Section 104D-1 of the General Statutes is hereby rewritten in its entirety to read as follows:

"§ 104D-1. *Compact entered into; form of compact.*—The Southern States Energy Compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

SOUTHERN STATES ENERGY COMPACT

ARTICLE I. Policy and Purpose. The party states recognize that the proper employment and conservation of energy and employment of energy-related facilities, materials, and products, within the context of a responsible regard for the environment, can assist substantially in the industrialization of the South and the development of a balanced economy for the region. They also recognize that optimum benefit from and acquisition of energy resources and facilities require systematic encouragement, guidance, and assistance from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis; it is the purpose of this compact to provide the instruments and framework for such a cooperative effort to improve the economy of the South and contribute to the individual and community well-being of the region's people.

ARTICLE II. The Board. (a) There is hereby created an agency of the party states to be known as the 'Southern States Energy Board' (hereinafter called the Board). The Board shall be composed of three members from each party state, one of whom shall be appointed or designated in each state to represent the Governor, the State Senate and the State House of Representatives, respectively. Each member shall be designated or appointed in accordance with the law of the state which he represents and shall serve and be subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon, either for the duration of his membership or for any lesser period of time, by a deputy or assistant, if the laws of his state make specific provision therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) Each party state shall be entitled to one vote on the Board, to be determined by majority vote of each member or member's representative from the party state present and voting on any question. No action of the Board shall be binding unless taken at a meeting at which a majority of all party states are represented and unless a majority of the total number of votes on the Board are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The Board shall appoint an Executive Director who shall serve at its pleasure and who shall also act as secretary, and who, together with the treasurer, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and may receive, utilize, and dispose of the same.

(i) The Board may establish and maintain such facilities as may be necessary for the transaction of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make to the Governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

ARTICLE III. Finances. (a) The Board shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. One-half of the total amount of each budget of estimated expenditures shall be apportioned among the party states in equal shares; one quarter of each such budget shall be apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group of party states based on the last decennial federal census; and one quarter of each such budget shall be apportioned among the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on the latest computations published by the federal census-taking agency. Subject to appropriations by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II(h) of this Compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II(h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become a part of the annual report of the Board.

(e) The accounts of the Board shall be open at any reasonable time for inspection.

ARTICLE IV. Advisory Committees. The Board may establish such advisory and technical committees as it may deem necessary, membership on which to include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state and federal government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this Compact.

ARTICLE V. Powers. The Board shall have the power to:

(1) Ascertain and analyze on a continuing basis the position of the South with respect to energy, energy-related industries, and environmental concerns.

(2) Encourage the development, conservation and responsible use of energy and energy-related facilities, installations, and products as part of a balanced economy and healthy environment.

(3) Collect, correlate, and disseminate information relating to civilian uses of energy and energy-related materials and products.

(4) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspect of:

a. Energy, environment, and application of energy, environmental, and related concerns to industry, medicine, or education or the promotion or regulation thereof.

b. The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of energy and energy-related materials, products, installations, or wastes.

(5) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations of energy product, material, or equipment use and disposal and of proper techniques or processes for the application of energy resources to the civilian economy or general welfare.

(6) Undertake such nonregulatory functions with respect to sources of radiation as may promote the economic development and general welfare of the region.

(7) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to energy and environmental fields.

(8) Recommend such changes in, or amendments or additions to, the laws, codes, rules, regulations, administrative procedures and practices or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made through the appropriate state agency with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(9) Prepare, publish and distribute, with or without charge, such reports, bulletins, newsletters or other material as it deems appropriate.

(10) Cooperate with the United States Department of Energy or any agency successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interests.

(11) Act as licensee of the United States Government or any party state with respect to the conduct of any research activity requiring such license and operate such research facility or undertake any program pursuant thereto.

(12) a. Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of energy and environmental incidents in the area comprising the party states, to coordinate the environmental and other energy-related incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with energy and environmental incidents.

b. The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with energy and environmental incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this Compact.

ARTICLE VI. Supplementary Agreements. (a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this Compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this Article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this Compact or a program or activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this Article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this Compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the Compact.

ARTICLE VII. Other Laws and Relationships. Nothing in this Compact shall be construed to:

(1) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(2) Limit, diminish or otherwise impair jurisdiction exercised by the United States Department of Energy, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress.

(3) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(4) Permit or authorize the Board to exercise any regulatory authority or to own or operate any nuclear reactor for the generation of electric energy; nor shall the Board own or operate any facility or installation for industrial or commercial purposes.

ARTICLE VIII. Eligible Parties, Entry into Force and Withdrawal. (a) Any or all of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, the Commonwealth of Puerto Rico, and the United States Virgin Islands shall be eligible to become party to this Compact.

(b) As to any eligible party state, this Compact shall become effective when its legislature shall have enacted the same into law: Provided that it shall not become initially effective until enacted into law by seven states.

(c) Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the Governor of the withdrawing state shall have sent formal notice in writing to the Governor of each other party state informing said Governors of the action of the legislature in repealing the Compact and declaring an intention to withdraw.

ARTICLE IX. Severability and Construction. The provisions of this Compact and of any supplementary agreement entered into hereunder shall be (severable) and if any phrase, clause, sentence or provision of this Compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the Compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this Compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof."

Sec. 2. Section 104D-2 is hereby rewritten in its entirety to read as follows:

"§ 104D-2. *Appointment of North Carolina members and alternate members of Southern States Energy Board.*—(a) North Carolina members of the Southern States Energy Board shall be appointed as follows:

(i) One member to be appointed by the Governor.

(ii) One member of the House of Representatives to be appointed by the Speaker of the House of Representatives.

(iii) One member of the Senate to be appointed by the President of the Senate.

(b) Members shall serve at the pleasure of the original appointing authority and until their successors are appointed.

(c) Each appointing authority is authorized to appoint an alternate member who may serve at and for such time as the regular member shall designate and shall have the same power and authority as the regular member when so serving."

Sec. 3. Section 104D-6 is repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1983.

S. B. 350 CHAPTER 283

AN ACT TO PROVIDE THAT DAY-CARE FACILITIES OPERATED BY CHURCHES, SYNAGOGUES, OR SCHOOLS OF RELIGIOUS CHARTER SHALL NOT BE REQUIRED TO OBTAIN LICENSES BUT SHALL BE SUBJECT TO DAY-CARE STANDARDS FOR HEALTH AND SAFETY.

In conformity with the Constitutions of the United States and of North Carolina, it is the public policy of the State not to interfere in the ministry of a church child day-care ministry, except to use the power delegated to the Child Day-Care Licensing Commission by the General Assembly to enforce minimum standards for facilities.

Whereas, the legislative intent and purpose of this act is to protect the children placed in day-care facilities; and

Whereas, day-care facilities operated by churches, synagogues or schools of religious charter are desirous of providing such protection to children cared for in their facilities, but object to State licensure on religious grounds; and

Whereas, these facilities are willing to report to the Commission that they have complied with the minimum standards for facilities; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The term "church day-care facility" as used herein shall include any day-care facility operated by a church, synagogue or school of religious charter.

Sec. 2. Reporting procedure of church day-care facilities. (a) Church day-care facilities shall file with the Child Day-Care Licensing Commission a notice of intent to operate a day-care facility and the date it will begin operation. Within 30 days after the beginning of operation, the church day-care facility shall have filed with the Commission reports and supporting data that will show the day-care facility to be in compliance with all minimum standards provided in G.S. 110-90.1 and G.S. 110-91 for day-care facilities.

(b) Each church day-care facility shall annually file with the Commission a report indicating that it meets the minimum standards for facilities as provided in G.S. 110-90.1 and G.S. 110-91. The report shall be in such form as is required by the Commission. Each church day-care facility shall be responsible for accompanying its report with the necessary supporting data to show conformity with those minimum standards, including reports from the local and district health departments, local building inspectors, local firemen, volunteer firemen, and other, on forms which shall be provided by the Commission.

(c) It shall be the responsibility of the Commission to notify the facility if it fails to meet the minimum requirements. The Commission shall be

responsible for carrying out the enforcement provisions provided by the General Assembly in Article 7 of Chapter 110 including inspection to insure compliance. After a hearing the Commission shall be empowered to issue an order requiring a church day-care facility which fails to meet the standards established pursuant to this Article to cease operating. A church day-care facility may request a hearing to determine if it is in compliance with the provisions of G.S. 110-90.1 and G.S. 110-91. If the Commission determines that it is not, it may order the facility to cease operation until it is in compliance.

(d) Church day-care facilities shall be exempt from the requirement that they obtain a license and that the license be displayed and shall be exempt from any subsequent rule or regulatory program not dealing specifically with the minimum standards as provided in G.S. 110-90.1 and G.S. 110-91. Nothing in this Article shall be interpreted to allow the State to regulate or otherwise interfere with the religious training offered as a part of any church day-care program. Nothing in this Article shall prohibit any church-operated, synagogue-operated, or religious affiliated facility from becoming licensed by the State if it so chooses.

(e) Church day-care facilities found to be in violation of G.S. 110-90.1 and 110-91 shall be subject to the injunctive provisions of G.S. 110-104, except that they may not be enjoined for operating without a license. The Secretary is empowered to seek an injunction against any such facility under the conditions specified in G.S. 110-104 with the above exception and when any such facility operates without submitting the required forms and following the procedures required by this Article.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1983.

S. B. 254 CHAPTER 284

AN ACT TO ALLOW THE GOVERNING BODY OF GASTON COUNTY OR ITS MUNICIPALITIES TO CONTRACT WITH BANKS AND OTHER FINANCIAL INSTITUTIONS FOR RECEIPT OF PAYMENT OF PROPERTY TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-321 is amended by adding a new subsection to read:

"(e) The governing body of a taxing unit may contract with a bank or other financial institution for receipt of payment of taxes payable at par. Discounts for early payment of taxes shall be allowed by a financial institution that contracts with a taxing unit pursuant to this subsection to the same extent as allowed by the tax collector. A financial institution that contracts with a taxing unit for receipt of payment of taxes shall furnish a bond to the taxing unit conditioned upon faithful performance of the contract in a form and amount satisfactory to the governing body of the taxing unit. A governing body of a taxing unit that contracts with a financial institution pursuant to this subsection shall publish a timely notice of the institution at which taxpayers may pay their taxes in a newspaper having general circulation within the taxing unit. The cost of publishing this notice shall be paid by the taxing unit. No notice is required, however, if the financial institution receives payments only through the mail."

Sec. 2. The first sentence of G.S. 105-353 is amended by inserting between the word "collector" and the period following that word the phrase "or at a financial institution with which the taxing unit has contracted for receipt of payment of taxes".

Sec. 3. G.S. 105-357(b) is amended by adding a new paragraph preceding subdivision (1) to read:

"A financial institution with which a taxing unit has contracted for receipt of payment of taxes may accept an uncertified check in payment of taxes, but may not issue a receipt for payment of taxes made by uncertified check. If the check is honored, the financial institution shall so notify the tax collector, who shall, upon request of the taxpayer, issue a receipt for payment of the taxes. If the check is returned unpaid, the financial institution shall so notify the tax collector, who shall proceed to collect the taxes by use of any remedy allowed for collection of taxes or by bringing a civil or criminal action on the check."

Sec. 4. This act applies only to Gaston County.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1983.

S. B. 256 CHAPTER 285

AN ACT AUTHORIZING THE QUALIFIED VOTERS OF THE TOWN OF BEECH MOUNTAIN TO DETERMINE WHETHER BEER AND WINE MAY BE SOLD IN THAT TOWN.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 6, Chapter 18B, of the General Statutes, the Town Council of Beech Mountain may call an election on the sale of malt beverages and unfortified wine. The ballot propositions shall be those stated in G.S. 18B-602(a)(4) and 18B-602(d)(1).

Sec. 2. Except as provided in Section 1 of this act, the election shall be conducted pursuant to Chapter 18B of the General Statutes.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1983.

S. B. 310 CHAPTER 286

AN ACT TO REVISE THE CHARTER OF THE TOWN OF JACKSON.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Jackson is rewritten to read:

"CHARTER OF THE TOWN OF JACKSON.

"CHAPTER I. INCORPORATION, GENERAL POWERS, BOUNDARIES.

"Sec. 1.1. *Incorporation and General Powers.* The Town of Jackson, heretofore incorporated by the General Assembly (Chapter 10, Private Laws of 1872-73), shall continue to operate as a body politic and corporate under the name and style of the 'Town of Jackson'. Under that name, the town and its officers and employees shall have all of the powers, duties, rights, privileges and immunities conferred and imposed on cities by the general law of North Carolina and by this Charter.

"Sec. 1.2. *Corporate Boundaries.* The corporate boundaries of the Town of Jackson shall be those established by Chapter 13 of the Private Laws of 1927 as amended by Chapter 654 of the Session Laws of 1955 and as further amended by any annexations conducted under general law. An official map of the current town boundaries shall be kept on file in the office of the town clerk.

"CHAPTER II. GOVERNING BODY, ELECTIONS, ADMINISTRATION.

"Sec. 2.1. *Governing Body: Mayor and Board of Commissioners.* The Town of Jackson shall be governed by a mayor and a five member board of commissioners. The board of commissioners shall be the legislative body of the town, and except as otherwise provided by law, shall have general control over town government. The mayor shall exercise those powers and duties conferred upon him by law together with such other powers and duties conferred upon him by the board of commissioners.

"Sec. 2.2. *Election of Mayor and Board of Commissioners.* (a) The mayor and the members of the board of commissioners shall be elected by the voters of the entire town. The mayor shall be elected for a term of four years and the board of commissioners members shall be elected for staggered terms of four years.

(b) In the municipal elections to be held in 1983 and every four years thereafter, the mayor shall be elected for a term of four years. In the 1983 election and the municipal elections held every four years thereafter, two commissioners shall be elected to fill the seats of the board members whose terms expire in 1983. In the municipal elections to be held in 1985 and every four years thereafter, three commissioners shall be elected to fill the seats of the board members whose terms expire in 1985.

"Sec. 2.3. *Conduct of Municipal Elections.* The municipal elections in the Town of Jackson shall be nonpartisan and decided by a plurality in accordance with G.S. 163-292. No primary elections shall be held. The municipal elections shall be conducted pursuant to the applicable provisions of Chapter 163 of the North Carolina General Statutes, particularly Articles 23 and 24 thereof.

"Sec. 2.4. *Mayor-Council Form of Government.* The Town of Jackson shall operate under the mayor-council form of government as provided in G.S. Chapter 160A, Article 7, Part 3.

"CHAPTER III. FINANCE.

"Sec. 3.1. *Water and Sewer Charges Lien on Premises Served.* (a) Charges levied by the Town of Jackson for water and sewer services shall constitute a lien on the property served, which lien shall attach at the time such services are rendered. This lien shall be inferior to all prior and subsequent liens for State, local and federal taxes and assessments and superior to all other liens.

(b) The lien for water and sewer charges may be foreclosed under the procedure prescribed by law for the foreclosure of special assessment liens, and the same statute of limitations shall apply.

(c) The remedy provided for herein for the collection of water and sewer charges shall be in addition to and not to the exclusion of other available remedies. If the lien provided for in this section is foreclosed, the town may be entitled to a deficiency judgment.

"CHAPTER IV. REGULATORY POWER.

"Sec. 4.1. *Trespassin on Town Property.* The town may, by ordinance, make it unlawful for any person to refuse to vacate any land, building, or facility owned, leased, or otherwise occupied, used or in the possession of the Town of Jackson or Northampton County, when directed to do so by an order of any

police officer or the administrative official or employee in charge of such land, building, or facility.

"Sec. 4.2. *Loitering.* (a) The town may, by ordinance, make it unlawful for any person, after having been asked by a police officer to move on or leave, to loiter, loaf, wander, stand, or remain idle either alone or in consort with others in a public place in such manner as to:

(1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.

(2) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress, therein, thereon and thereto.

(b) As used in this section:

(1) 'Loitering' shall mean remaining idle in essentially one location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around and shall also include the colloquial expression 'hanging around'.

(2) 'Public Place' shall mean any place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

"Sec. 4.3. *Maintenance of Properties in Business District.* The town may, by ordinance, require that all buildings and structures located on lots that have frontage on that portion of U.S. Highway 158 that is within the town's business district be properly repaired and maintained (including painting), according to standards set forth in such ordinance.

"CHAPTER V. SPECIAL ASSESSMENTS.

"Sec. 5.1. *Assessments for Street Improvements.* (a) Under the circumstances specified in subsection (b), the board of commissioners may levy special assessments for street improvements without regard for the petition requirements of G.S. 160A-217. However, except as modified expressly or by necessary implication by this section, all of the other provisions of Article 10 of Chapter 160A shall be applicable to assessments made without a petition.

(b) The board of commissioners may exercise the authority granted in subsection (a) with respect to the following types of streets located within the town:

(1) Unpaved streets that connect two paved streets;

(2) Unpaved extensions of streets that are partially paved.

(c) Whenever the authority granted in subsection (a) is used, the board of commissioners shall assess to abutting property owners the same percentage of the cost of the project that, by formally adopted town policy, would be assessed

if the project were undertaken in response to the submission of a petition under G.S. 160A-217.

"Sec. 5.2. *Utility Connections Required When Streets Paved.* Whenever (i) the town undertakes a street paving special assessments project, and (ii) a public water or sewer line is located within the portion of the street right-of-way that is intended to be paved, and (iii) one or more lots adjacent to such street is not connected to such water or sewer line, then the town may, as a part of such street improvements project, install lateral lines to such lots and assess the cost of such connections to the lots affected."

Sec. 2. Except as otherwise provided in this Charter, all provisions of any local act applicable to the Town of Jackson previously adopted are repealed, except that this act does not repeal Chapter 1189, Session Laws of 1979 concerning motor vehicle taxes, as rewritten by Chapter 75, Session Laws of 1983.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1983.

S. B. 322 CHAPTER 287

AN ACT TO REWRITE THE CHARTER OF THE TOWN OF STONEVILLE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Stoneville is revised and rewritten to read:

"The Charter of the Town of Stoneville

CHAPTER 1

Incorporation and Corporate Powers

Section 1. *Incorporation and Corporate Powers.* The Town of Stoneville, heretofore incorporated by the General Assembly, shall continue to operate as a body politic and corporate under the name of the 'Town of Stoneville.' Under that name, the inhabitants of the Town of Stoneville have all the powers, duties, rights, privileges and immunities conferred and imposed on cities by the general law of North Carolina, by local law and by this Charter.

CHAPTER II

Corporate Boundaries

Section 1. *Town Boundaries.* The corporate limits of the Town shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of Stoneville, and as the same may be altered from time to time in accordance with law. An official map of the Town, showing the current Town boundaries, shall be maintained permanently (as required by G.S. 160A-22) in the office of the Town Clerk, and shall be available for public inspection. Upon alteration of the corporate boundaries made pursuant to law, the corresponding changes to the official map of the Town shall be made.

CHAPTER III

Governing Body

Section 1. *Structure of Governing Body: Number of Members.* The governing board of the Town of Stoneville is the Town Council, which has five members, and the Mayor.

Sec. 2. *Manner of Election of Council.* The qualified voters of the entire Town elect the members of the Council.

Sec. 3. *Term of Office of Members of Council.* Members of the Council are elected to two-year terms.

Sec. 4. *Election of Mayor, Term of Office.* The qualified voters of the entire Town elect the Mayor, who shall be elected to a two-year term of office.

CHAPTER IV

Elections

Section 1. *Conduct of Town Elections.* Town officers shall be elected on a nonpartisan basis and the results determined by plurality, as provided by G.S. 163-292.

Sec. 2. *Time of Elections.* Regular municipal elections shall be held in the Town every two years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina.

CHAPTER V

Administration

Section 1. *Town to Operate Under Council-Manager Plan.* The Town of Stoneville operates under the council-manager plan as provided in G.S. Chapter 160A, Article 7, Part 2.

Sec. 2. *Town Manager.* The Town Council shall appoint a Town Manager who shall be the administrative head of Town government, and who shall be responsible to the Council for the proper administration of the affairs of the Town. The Town Manager shall hold office at the pleasure of the Council, and shall receive such compensation as the Council shall determine.

Sec. 3. *Town Attorney.* The Town Council shall appoint a Town Attorney who shall be licensed to engage in the practice of law in the State of North Carolina and who shall serve at its pleasure and shall be its legal advisor.

Sec. 4. *Tax Collector.* As provided in G.S. 105-349, the Council shall either appoint a tax collector or confer the duties of tax collector upon a qualified employee appointed by the Manager.

Sec. 5. *Town Clerk.* The Manager shall appoint a Clerk to keep a journal of the proceedings of the Council, to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board may direct.

Sec. 6. *Other Administrative Officers and Employees.* Consistent with applicable State laws, the Town Council may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the Town government in order to promote the orderly and efficient administration of the affairs of the Town."

Sec. 2. (a) The following laws are repealed:

(1) Chapter 183, Public Laws of 1876-77.
(2) Chapter 130, Private Laws of 1889.
(3) Chapter 24, Private Laws of 1903.
(4) Chapter 99, Private Laws, Extra Session of 1920.
(5) Section 1 of Chapter 666, Session Laws of 1981.

(b) The following laws are saved:

(1) Chapter 87, Private Laws of 1935.
(2) Chapter 235, Public-Local Laws of 1941.
(3) Chapter 336, Session Laws of 1975.
(4) Section 173, Session Laws of 1979.
(5) Section 2 of Chapter 666, Session Laws of 1981.
(6) Chapter 769, Session Laws of 1947.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1983.

H. B. 209 CHAPTER 288

AN ACT TO EXEMPT TOW DOLLIES FROM CERTIFICATE OF TITLE AND REGISTRATION REQUIREMENTS FOR MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-51 is amended by adding a new subdivision to read:

"(10) Devices which are designed for towing private passenger motor vehicles or vehicles not exceeding 5,000 pounds gross weight. These devices are known generally as 'tow dollies'. A tow dolly is a two-wheeled device without motive power designed for towing disabled motor vehicles and is drawn by a motor vehicle in the same manner as a trailer."

Sec. 2. This act shall be effective on October 1, 1983.

In the General Assembly read three times and ratified, this the 9th day of May, 1983.

H. B. 472 CHAPTER 289

AN ACT TO AUTHORIZE THE DISPOSITION OF CONTRABAND CONFISCATED FROM PRISONERS.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 148 of the North Carolina General Statutes is amended by adding the following new section:

"§ 148-18.1. *Confiscation of unauthorized articles.*—Any item of personal property which a prisoner in any correctional facility is prohibited from possessing by State law or which is not authorized by rules adopted by the Secretary of Correction shall, when found in the possession of a prisoner, be confiscated and destroyed or otherwise disposed of as the Secretary may direct. Any unauthorized funds confiscated under this section or funds from the sale of confiscated property shall be deposited to Inmate Welfare Fund maintained by the Department of Correction."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 9th day of May, 1983.

S. B. 221 CHAPTER 290

AN ACT TO AMEND ARTICLE 49 OF CHAPTER 106, RELATING TO HATCHERIES AND CHICK DEALERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-539 is amended by deleting the words "and turkey improvement plans" and inserting in lieu thereof the words "improvement plan".

Sec. 2. G.S. 106-540 is rewritten, through the end of subdivision (1), as follows:

"§ 106-540. *Rules and regulations.*—The North Carolina Board of Agriculture is hereby authorized to adopt such regulations as may be necessary to:

(1) Carry out the provisions of the national poultry improvement plan."

Sec. 3. G.S. 106-540 is amended by adding new subdivisions at the end thereof as follows:

"(6) Establish fee schedules for pullorum and other disease testing, and the performance of services such as culling and selecting by Department personnel.

(7) Provide for compulsory testing of poultry for pullorum disease and fowl typhoid."

Sec. 4. G.S. 106-542 is rewritten as follows:

"(a) It shall be unlawful for any person, firm or corporation to operate a hatchery within this State without first obtaining a hatchery license from the Department of Agriculture for a fee of twenty-five dollars ($25.00) per year.

(b) It shall be unlawful for any person, firm or corporation to operate as a hatching egg dealer, chick dealer or jobber within this State without first obtaining a license from the Department of Agriculture for a fee of ten dollars ($10.00) per year.

(c) The Department of Agriculture may deny, suspend, revoke or refuse to renew the license of any person, firm or corporation for violation of this Article or any rule or regulation promulgated thereunder."

Sec. 5. G.S. 106-543 is amended by deleting the words "and turkey improvement plans" and inserting in lieu thereof the words "improvement plan", and is further amended by deleting the words "or national turkey improvement plan" at the end thereof.

Sec. 6. G.S. 106-548 is amended by deleting the first three sentences and the last sentence thereof.

Sec. 7. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 11th day of May, 1983.

S. B. 362 CHAPTER 291

AN ACT TO PROVIDE FOR PARTISAN ELECTIONS FOR THE TOWN OF WOODFIN.

The General Assembly of North Carolina enacts:

Section 1. Article IV of the Charter of the Town of Woodfin, being Chapter 271, Session Laws of 1971, as rewritten by Chapter 324, Session Laws of 1979, is amended by adding a new section to read:

"Sec. 4.5. Conduct of Elections. Municipal elections shall be conducted on a partisan basis in accordance with G.S. 163-291."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1983.

H. B. 653 CHAPTER 292

AN ACT TO CLARIFY A PUTATIVE FATHER'S RIGHT TO NOTICE OF AN ADOPTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-6(a)(3) is amended by adding a new final sentence to that subdivision, to read:

"Determination under G.S. 48-6(a)(3) that the adoption may proceed without the putative father's consent shall be made only after notice to him pursuant to G.S. 1A-1, Rule 4. This notice shall be titled in the biological name of the child."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1983.

H. B. 680 CHAPTER 293

AN ACT TO REQUIRE COUNTY DIRECTORS OF SOCIAL SERVICES TO RESPOND TO REQUESTS FOR CONSENT TO SEPARATE AN INFANT FROM ITS PARENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108A-14 is amended by removing the word "and" from the end of subdivision (11), by deleting the period at the end of subdivision (12) and substituting "; and", and by adding a new subdivision to read as follows:

"(13) To respond by investigation and action to a request for written consent to the plan of separation of a child under six months of age from its custodial parent, pursuant to G.S. 14-320."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 11th day of May, 1983.

H. B. 713 CHAPTER 294

AN ACT TO MAKE TECHNICAL CORRECTIONS TO VARIOUS STATUTES AFFECTING CRIMINAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-27.2(a), as it appears in the 1978 Replacement Volume 1C of the General Statutes, is amended by substituting "Article 11 of Chapter 15A" for "Article 4 of this Chapter" on line 1 of the subsection.

Sec. 2. G.S. 15-27.2(g), as it appears in the 1978 Replacement Volume 1C of the General Statutes, is amended by substituting "Article 11 of Chapter 15A" for "Article 4 of Chapter 15" on line 2 of the subsection.

Sec. 3. G.S. 15A-303(e)(3) is amended by substituting "G.S. 5A-11" for "G.S. 5-1".

Sec. 4. G.S. 15A-543(b), as it appears in the 1978 Replacement Volume 1C of the General Statutes, is amended by rewriting the first three lines as follows:

"(b) A violation of this section is a Class J felony if:"

Sec. 5. G.S. 20-24(c)(1), as it appears in the 1981 Cumulative Supplement to the 1978 Replacement Volume 1C of the General Statutes, is amended by

inserting "with a magistrate's order or" between "served" and "with" on line 7 of the subsection.

Sec. 6. G.S. 90-95(h)(3), as it appears in the 1981 Replacement Volume 2C of the General Statutes, is amended by inserting between "preparation," and "thereof" on line three of the subdivision the following:

"of cocoa leaves, or any salt, compound, derivative or preparation".

Sec. 7. G.S. 90-108(b), as it appears in the 1981 Replacement Volume 2C of the General Statutes, is amended by substituting "criminal pleading" for "violation is prosecuted by an information, indictment, or warrant which" on lines 2 and 3 of the subsection.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1983.

H. B. 1012 CHAPTER 295

AN ACT TO AMEND THE RESTRICTIONS ON FORCE ACCOUNTS AS APPLIED TO DAVIDSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-135 is amended by inserting immediately after the figures seventy-five thousand dollars ($75,000) the words "except that such dollar limit shall not apply when constructing a Residential Care Facility for 'Willie M. children'".

Sec. 2. G.S. 143-128 shall not apply when a Residential Treatment Care Facility shall be constructed for "Willie M. children".

Sec. 3. This act applies only to Davidson County.

Sec. 4. This act is effective upon ratification, and expires two years after that date.

In the General Assembly read three times and ratified, this the 11th day of May, 1983.

S. B. 269 CHAPTER 296

AN ACT TO REFORM CERTAIN ADMINISTRATIVE PROCEDURES OF THE ENVIRONMENTAL MANAGEMENT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-214.1, as it now appears in 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended as follows: by deleting the text of subsection (e) following the word "the" on line 10 of the subsection and by inserting instead the following: "requirements of G.S. 150A-12."

Sec. 2. G.S. 143-215.1(c), as it appears in 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended as follows:

1. by deleting from paragraph (2)a. thereof the following words, beginning at line 19 and continuing to line 22: "by posting a copy of the notice at the courthouse in the county in which the pretreatment facility, outlet or point source or treatment works or disposal system discharging to the surface waters of the states lies and",

2. by deleting from paragraph (3) thereof the following words beginning at line 12 and continuing through line 15: "posted at the courthouse door of the

county in which the pretreatment facility, outlet, point source, treatment works or disposal systems lies, and shall cause the notice to be".

Sec. 3. G.S. 143-215.1(c)(3), as it appears in the 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended as follows: by deleting the words "hearing" and "hearings" whenever they appear in that paragraph, and inserting instead the words "meeting" and "meetings", respectively.

Sec. 4. G.S. 143-215.5, as it appears in 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended as follows: (a) by deleting from paragraph (b) of the statute the text beginning with "de novo" on line 14 and concluding with "thereto" on line 19, and by inserting instead the following: "in accordance with G.S. 150A-50 and G.S. 150A-51."

Sec. 5. G.S. 143-215.3(a)(1), as it now appears in the 1981 Cumulative Supplement Volume 3C of the North Carolina General Statutes, is amended by deleting the last sentence.

Sec. 6. G.S. 143-215.3(a), as it now appears in the 1981 Cumulative Supplement to 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended by deleting therefrom the paragraphs numbered (11) and (13) and by renumbering paragraph (12) as (11).

Sec. 7. G.S. 143-215.3(a)(8), as it now appears in the 1981 Cumulative Supplement to 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended by deleting therefrom the third paragraph beginning on line 24, and by inserting instead the following new paragraph: "Notice of hearing shall be given in accordance with the provisions of G.S. 150A-12."

Sec. 8. G.S. 143-215.3(a)(8), as it now appears in the 1981 Cumulative Supplement to Replacement Volume 3C of the North Carolina General Statutes, is further amended at line 7 thereof by deleting the reference "G.S. 143-215.4" and by inserting in lieu thereof the reference "General Statutes Chapter 150A, Article 2".

Sec. 9. G.S. 143-215.4(a), as it now appears in 1978 Replacement Volume 3C of the North Carolina General Statutes is amended by deleting lines 6-8 thereof and the words "on the date when such action is taken" on line 9 thereof, and by inserting instead the following: "G.S. 150A-12". G.S. 143-215.4(a) is further amended by inserting at the end thereof the following sentence: "In addition to the manner of giving notice prescribed by G.S. 150A-12, the department shall give notice of any proceeding under G.S. 143-214.1 and G.S. 143-215 to all persons on its mailing list."

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1983.

H. B. 143 CHAPTER 297

AN ACT TO CLARIFY THE DEFINITION OF DAY-CARE PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-86(2) is rewritten to read as follows:

"(2) 'Day care' includes any child-care arrangement under which a child less than 13 years of age receives care away from his own home by persons other than his parents, grandparents, aunts, uncles, brothers and sisters who are not minors, and guardians or full-time custodians."

Sec. 2. G.S. 110-86(4) is rewritten to read as follows:

"(4) 'Day-care plan' includes any day-care program or child-care arrangement in which any person provides day care for more than one child and less than six children at any one time, wherever operated, and whether or not operated for profit. To determine whether a child-care arrangement is a day-care plan, all children shall be counted except the school-age children of the plan operator or provider. The person who is registered shall be the individual who is actually providing care on site for the children."

Sec. 3. G.S. 110-103 is rewritten to read as follows:

"Penalty. Any person who violates the provisions of G.S. 110-98 through G.S. 110-100 or G.S. 110-102 shall be guilty of a general misdemeanor. Any person who violates G.S. 110-101 shall be guilty of a misdemeanor punishable by a fine not to exceed fifty dollars ($50.00), imprisonment for not more than 30 days, or both."

Sec. 4. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 11th day of May, 1983.

H. B. 458 CHAPTER 298

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO REQUIRE THAT DISTRICT ATTORNEYS AND THE ATTORNEY GENERAL BE LICENSED TO PRACTICE LAW.

The General Assembly of North Carolina enacts:

Section 1. Section 7 of Article III of the North Carolina Constitution is amended by adding a new paragraph (7) to read as follows:

"(7) Special Qualifications for Attorney General. Only persons duly authorized to practice law in the courts of this State shall be eligible for appointment or election as Attorney General."

Sec. 2. Section 18 of Article IV of the North Carolina Constitution is amended by adding between the first and the second sentences of paragraph (1) of that section a new sentence to read as follows:

"Only persons duly authorized to practice law in the courts of this State shall be eligible for election or appointment as a District Attorney."

Sec. 3. The amendments set out in Sections 1 and 2 of this act shall be submitted to the qualified voters of the State at the general election to be held in November 1984. That election shall be held and conducted under the laws then governing general elections in this State.

Sec. 4. At the general election, each qualified voter presenting himself to vote shall be provided a ballot on which shall be printed the following:

"☐ FOR constitutional amendment requiring Attorney General and District Attorneys to be duly authorized to practice law prior to election or appointment.

☐ AGAINST constitutional amendment requiring Attorney General and District Attorneys to be duly authorized to practice law prior to election or appointment."

Sec. 5. If a majority of the votes cast are in favor of the amendments set out in Sections 1 and 2 of this act, then the amendments shall be certified by the State Board of Elections to the Secretary of State, who shall enroll the amendments among the permanent records of his office, and the amendments shall become effective on January 1, 1985.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1983.

S. B. 348 CHAPTER 299

AN ACT TO ALLOW STOKES AND SURRY COUNTIES TO NAME AND ASSIGN STREET NUMBERS TO PRIVATE ROADS IN UNINCORPORATED AREAS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 1319, Session Laws of 1979, as rewritten by Chapter 98, Session Laws of 1983, is amended by adding immediately after "Avery" the words "Stokes, Surry".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1983.

H. B. 617 CHAPTER 300

AN ACT TO IMPOSE A SEPARATE PRIVILEGE LICENSE TAX ON PERSONS ENGAGED IN AN ALARM SYSTEM BUSINESS LICENSED UNDER THE PRIVATE PROTECTIVE SERVICES ACT.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-51.1. *Alarm systems.*—(a) Every person, firm, or corporation engaged in an alarm system business licensed under Chapter 74C of the General Statutes shall apply for and obtain from the Secretary of Revenue a State license and shall pay a tax of twenty-five dollars ($25.00) for the privilege of engaging in this business.

(b) Counties, cities, and towns may not levy a license tax on the business taxed under this section."

Sec. 2. G.S. 105-51 is amended by designating the current language as subsection (a) and adding a new subsection to read:

"(b) The tax imposed by this section does not apply to persons who are engaged in the business of selling, delivering, or renting burglar alarms and other warning devices and are licensed under G.S. 105-51.1."

Sec. 3. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 12th day of May, 1983.

H. B. 1048 CHAPTER 301

AN ACT TO MODIFY G.S. 160A-58.4 WITH RESPECT TO EXTRATERRITORIAL POWERS OUTSIDE SATELLITE CORPORATE LIMITS IN THE TOWN OF CANTON.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 160A-58.4 is hereby rewritten to read as follows: "Satellite corporate limits shall be considered a part of the city's corporate limits for the purposes of extraterritorial land use regulation pursuant to G.S. 160A-360, but not for purposes of abatement of public health nuisances pursuant to G.S. 160A-193."

Sec. 2. Paragraph (b)(1) of G.S. 160A-58.1 is hereby amended by substituting the word "five" for the word "three" in line 2 of said paragraph.

Sec. 3. This act shall apply only to the Town of Canton, Haywood County.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1983.

S. B. 273 CHAPTER 302

AN ACT TO AUTHORIZE EMERGENCY ADMISSIONS OF JUVENILES TO TREATMENT FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-56.5 is amended by adding the following sentences at the end of that section:

"In an emergency situation, a minor who is mentally ill or an inebriate and in need of treatment may be admitted to a treatment facility upon his own written application, and such application shall serve as the initiating document for the hearing conducted in accordance with G.S. 122-56.7. Within 24 hours of admission, the responsible parent, guardian or person standing *in loco parentis* will be notified of the admission unless such notification is impossible due to inability to identify the responsible individual, inability to ascertain the whereabouts of the responsible individual, or inability to contact the responsible individual after all reasonable means to establish contact have been attempted."

Sec. 2. G.S. 90-21.5(a) is amended by adding the following sentence at the end of that subsection:

"This section does not prohibit the admission of a minor to a treatment facility upon his own written application in an emergency situation as authorized by G.S. 122-56.5."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1983.

H. B. 52 **CHAPTER 303**

AN ACT TO ALLOW AN INCOME TAX DEDUCTION FOR CONTRIBUTIONS TO RADIO EMERGENCY ASSOCIATION OF CITIZENS TEAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147(15) is amended by inserting between the phrase "rescue squads," and the words "and volunteer" the following:

"Radio Emergency Association of Citizens Teams (REACT),".

Sec. 2. This act is effective for taxable years beginning on and after January 1, 1983.

In the General Assembly read three times and ratified, this the 13th day of May, 1983.

H. B. 485 **CHAPTER 304**

AN ACT TO PROVIDE FOR THE SIMULTANEOUS ISSUANCE OF ABSENTEE BALLOTS AND THE APPLICATION FOR ABSENTEE BALLOTS WHEN A VOTER MAKES A PERSONAL REQUEST PURSUANT TO G.S. 163-226.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of Chapter 163 of the General Statutes is amended by adding the following new section:

"§ 163-230.1. *Simultaneous issuance of absentee ballots with application.*—(a) When a qualified voter personally requests by mail an application for absentee ballots, the county board of elections shall cause to be mailed to that voter in a single package:

(1) The appropriate application form under G.S. 163-227;

(2) The official ballots the voter is entitled to vote if his application is approved;

(3) A container-return envelope for the ballots;

(4) A large envelope (similar to a No. 14 or larger manila envelope) in which the application and container-return envelope with the ballots may be returned; and

(5) An instruction sheet.

The application, ballots, envelopes and instructions shall be mailed to the voter by the county board's chairman, secretary or supervisor as determined by the board and entered in its official minutes.

The application issued under this section shall have clearly printed or stamped on it the following statement: DO NOT PLACE THE APPLICATION IN THE ENVELOPE WITH YOUR BALLOTS - RETURN BOTH THE APPLICATION AND BALLOT ENVELOPE IN THE LARGE TRANSMITTAL ENVELOPE.

(b) The application shall be completed, the ballots marked, the ballots sealed in the container-return envelope, and the container-return envelope affidavit completed as provided in G.S. 163-227 and G.S. 163-231. The application shall not be placed in the container-return envelope. The application and the container-return envelope shall be placed separately in the large transmittal envelope for return to the chairman of the county board of elections.

(c) At its next official meeting after return of the completed application and container-return envelope with the voter's ballots, the county board of elections shall determine whether the application and container-return envelope have been properly executed. If the board determines that both the application and container-return envelope have been properly executed, it shall approve the application and deposit the container-return envelope with other container-return envelopes for the envelope to be opened and the ballots counted at the same time as all other container-return envelopes and absentee ballots.

(d) The provisions of this section shall apply only to requests received by mail from and signed by the voter individually and personally. No near relative, guardian, or other person other than the voter himself shall be permitted to apply for absentee ballots under this section.

(e) The State Board of Elections, by regulation or by instruction to the county board of elections, shall establish procedures to provide appropriate safeguards in the implementation of this section."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 13th day of May, 1983.

H. B. 504 CHAPTER 305

AN ACT TO PROHIBIT HUNTING FROM DESIGNATED HIGHWAYS AND STATE SECONDARY ROADS IN CRAVEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt, take or kill any animal or bird on or from the right-of-way of North Carolina Highway 306, between North Carolina Highway 101 and the Cherry Branch-Minnesott Beach Ferry Dock, in Craven County.

Sec. 2. It is unlawful to hunt, take or kill any animal or bird on or from the right-of-way of State Secondary Road 1225 in a southerly direction from State Secondary Road 1226 (Pitts Road) for a distance of approximately 0.6 of a mile to the first Weyerhaeuser Road beyond the boundary line of the Craven County Industrial Park.

Sec. 3. It is unlawful to hunt, take or kill any animal or bird on or from the right-of-way of U. S. Highway 70 from the Clark's overpass, State Secondary Road 1225, in an easterly direction for about 0.6 of a mile, which is that portion bordered by the Craven County Industrial Park.

Sec. 4. It is unlawful to hunt, take or kill any animal or bird on, or from the right-of-way of State Secondary Road 1004, State Secondary Road 1613, and State Secondary Road 1614, all in Craven County.

Sec. 5. Violation of this act is a misdemeanor punishable for a first conviction by a fine of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00) or by imprisonment not to exceed 30 days, and punishable for a second conviction within three years by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), by imprisonment not to exceed 90 days or by both.

Sec. 6. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by deputy sheriffs and by other peace officers with general subject matter jurisdiction.

Sec. 7. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 13th day of May, 1983.

H. B. 643 CHAPTER 306

AN ACT TO AMEND THE DAM SAFETY LAW RELATING TO THE DEFINITION OF THE TERM "DAM".

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.25(2)d. is amended by adding immediately after the words "North Carolina Utilities Commission" the words:

", provided that small power producers as defined in G.S. 62-3(27a) shall be subject to the provisions of this Part even though certified by the North Carolina Utilities Commission".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1983.

H. B. 223 CHAPTER 307

AN ACT AUTHORIZING THE COASTAL RESOURCES COMMISSION TO SET A FEE OF UP TO ONE HUNDRED DOLLARS FOR A CAMA MAJOR DEVELOPMENT PERMIT.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 113A-119 is amended by rewriting the parenthetical expression to read:

"(not to exceed twenty-five dollars ($25.00) for a minor development permit and not to exceed one hundred dollars ($100.00) for a major development permit)".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1983.

H. B. 852 CHAPTER 308

AN ACT TO MAKE THE SAME SCHOOL CONSOLIDATION AND DISCONTINUANCE OF SCHOOLS PROCEDURES APPLICABLE TO ALL PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-72 is amended by deleting the words "high school" wherever they appear and substituting "public school".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1983.

H. B. 414 **CHAPTER 309**

AN ACT TO ALLOW THE COURT TO ENJOIN THE DISPOSAL OF MARITAL PROPERTY PENDING INSTITUTION OF AN EQUITABLE DISTRIBUTION ACTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-20(i) is rewritten to read as follows:

"(i) Upon filing an action or motion in the cause requesting an equitable distribution or alleging that an equitable distribution will be requested when it is timely to do so, a party may seek injunctive relief pursuant to G.S. 1A-1, Rule 65 and Chapter 1, Article 37, to prevent the disappearance, waste or conversion of property alleged to be marital property. The court, in lieu of granting an injunction, may require a bond or other assurance of sufficient amount to protect the interest of the other spouse in the marital property."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 16th day of May, 1983.

S. B. 447 **CHAPTER 310**

AN ACT TO PROVIDE THAT THE GENERAL LAW AS TO VOTER ASSISTANCE APPLIES IN CHEROKEE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The following laws are repealed:

(1) Chapter 461, Public Laws of 1935,

(2) Chapter 391, Public Laws of 1937,

(3) Chapter 737, Session Laws of 1965, and

(4) Chapter 1000, Session Laws of 1967.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1983.

H. B. 468 **CHAPTER 311**

AN ACT TO REVISE THE PROCEDURES FOR NOMINATION OF CANDIDATES TO THE STATE BOARD OF COMMUNITY COLLEGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115D-2.1(b)(4)f. is rewritten to read:

"f. At each session of the General Assembly held in an odd-numbered year, the presiding officer of each house shall assign to either a standing or a special committee of that house the duty of receiving from the members of that house nominations of persons to be considered by that house for election to the State Board. The chairmen of the two committees shall jointly determine a common final date for receiving nominations from members of that house, and a common date for reporting to their respective houses their nominations for the State Board. Each committee shall screen the proposed candidates for nomination as to their qualifications, background, lack of statutory disabilities, and willingness and ability to serve if elected. Each Senator and each Representative may nominate only one candidate. When the nominating process is closed, each committee shall list all candidates and shall separately

vote 'aye' or 'no' on each candidate to determine whether that person shall be listed as a nominee of the committee. The verbal vote of a majority of those members of the committee present and voting shall constitute one nominee of the committee. An individual cannot be a candidate for nomination to more than one place. The committee of each house shall nominate at least two persons for each place to be filled by that house. No person may simultaneously be a candidate for election by both houses, and if one is nominated in both houses, he shall determine by which house he shall be nominated and so advise the chairman of both committees. The two houses shall, by joint resolution, fix a common date and time for the election of members of the State Board. At the election session in each house, the committee shall report its list of nominees with the term of office indicated for each nominee. The ballot in the House of Representatives shall also include the names of all other persons nominated by a member of that house who are determined by the committee to be qualified for the offices, with the committee's list of nominees being clearly set out on the ballot. No additional nominations shall be received from the floor. Each house shall then proceed to an election of the State Board. In order to be chosen, a nominee shall receive the votes of a majority of all members present and voting.

When each house has chosen one person for each place to be filled on the State Board, the chairman of the committee shall make a motion for the simultaneous election of those persons by that house to the indicated positions and for the indicated terms. The vote shall then be called electronically. If a majority of those voting shall vote 'aye,' persons named in the motion shall be declared to have been elected. Each house may adopt rules consistent with this section with respect to the election by that house of members of the State Board."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1983.

S. B. 58 CHAPTER 312

AN ACT TO AMEND G.S. 20-286(11) RELATING TO THE DEFINITION OF MOTOR VEHICLE DEALER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-286(11) is amended by adding a new subdivision, to be designated subdivision "f.", to read:

"f. A licensed real estate broker or salesman who sells a mobile home for the owner as an incident to the sale of land upon which the mobile home is located."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 16th day of May, 1983.

S. B. 240 CHAPTER 313

AN ACT TO AMEND THE RIGHT TO A NATURAL DEATH ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-320(a) is rewritten to read:

"(a) The General Assembly recognizes as a matter of public policy that an individual's rights include the right to a peaceful and natural death and that a patient or his representative has the fundamental right to control the decisions relating to the rendering of his own medical care, including the decision to have extraordinary means withheld or withdrawn in instances of a terminal condition. This Article is to establish an optional and nonexclusive procedure by which a patient or his representative may exercise these rights."

Sec. 2. G.S. 90-322(a)(2) is amended by deleting "by a majority of a committee of three physicians" and substituting "in writing by a physician other than the attending physician."

Sec. 3. The first sentence of G.S. 90-322(b) is amended by deleting "at the request" and substituting "with the concurrence".

Sec. 4. The second sentence of G.S. 90-322(b) is amended by deleting "are" and substituting "is" and further by inserting immediately after the words "may be" the words "withheld or".

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1983.

S. B. 299 CHAPTER 314

AN ACT TO REMOVE RETIREMENT AGE RESTRICTIONS IN THE UNORGANIZED MILITIA AND THE NORTH CAROLINA STATE DEFENSE MILITIA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 127A-7, as the same appears in the 1981 Replacement Volume of the General Statutes, is hereby rewritten to read as follows:

"The unorganized militia shall consist of all other able-bodied citizens of the State and of the United States and such other able-bodied persons who have or shall declare their intention to become citizens of the United States, who shall be at least 17 years of age, except those who have been convicted of a felony or discharged from any component of the military under other than honorable conditions."

Sec. 2. G.S. 127A-80(b), as the same appears in the 1981 Replacement Volume of the General Statutes, is hereby amended by deleting in the second sentence thereof the words "and under 50 years of age, or under 64 years of age and a former member of the armed forces of the United States", and from the third sentence the words "and under 64".

Sec. 3. G.S. 127A-80(h), as the same appears in the 1981 Replacement Volume of the General Statutes, is amended by striking the word "drills" in the fourth line and inserting in lieu thereof the word "assemblies".

Sec. 4. G.S. 127A-81(b), as the same appears in the 1981 Replacement Volume of the General Statutes, is amended by deleting the second sentence thereof which reads as follows: "Personnel of the cadre shall serve without pay."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1983.

S. B. 300 CHAPTER 315

AN ACT TO REVISE THE PROCEDURES FOR NONJUDICIAL PUNISHMENT AND SUMMARY COURTS-MARTIAL IN THE NORTH CAROLINA NATIONAL GUARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 127A-50 as it appears in the 1981 Replacement Volume of the General Statutes is amended by adding at the end of the section a new sentence to read as follows: "There shall be no right to demand trial by special court-martial."

Sec. 2. G.S. 127A-51 as it appears in the 1981 Replacement Volume of the General Statutes is amended by striking the period at the end of the section and adding the following: "except that there shall be no right to demand trial by special court-martial."

Sec. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 4. This act is effective upon ratification and applies to all military offenses committed after that date.

In the General Assembly read three times and ratified, this the 16th day of May, 1983.

S. B. 301 CHAPTER 316

AN ACT TO ADOPT THE USE OF THE CURRENT MANUAL FOR COURTS-MARTIAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 127A-51, as the same appears in the 1981 Replacement Volume of the General Statutes, is amended by striking the following date, punctuation, and words: "1951, as amended from time to time" and substituting therefor "as shall be currently in use by the armed forces of the United States".

Sec. 2. G.S. 127A-52, as the same appears in the 1981 Replacement Volume of the General Statutes, is amended by striking the following date, punctuation, and words: "1951, as amended from time to time" and substituting therefor "as shall be currently in use by the armed forces of the United States".

Sec. 3. G.S. 127A-53, as the same appears in the 1981 Replacement Volume of the General Statutes, is rewritten to read as follows: "Trials and proceedings by all courts and boards shall be in accordance with the plans and procedures laid down in the Manual for Courts-Martial, United States, as shall be currently in use by the armed forces of the United States, except as modified by this Chapter.

Sec. 4. G.S. 127A-55, as the same appears in the 1981 Replacement Volume of the General Statutes, is amended by striking the following date,

punctuation, and words: "1951, as amended from time to time" and substituting therefor "as shall be currently in use by the armed forces of the United States".

Sec. 5. G.S. 127A-56, as the same appears in the 1981 Replacement Volume of the General Statutes, is amended by striking the following date, punctuation, and words: "1951, as amended from time to time" and substituting therefor "as shall be currently in use by the armed forces of the United States".

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1983.

S. B. 306 CHAPTER 317

AN ACT TO PERMIT CONSULAR OR DIPLOMATIC PLATES TO BE ISSUED TO ACCREDITED PERSONS WITHOUT REGARD TO THEIR COUNTRY OF NATIONALITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-81(6) is amended by deleting:

", if the person requesting the plate is a national of the country by which he is appointed".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1983.

H. B. 239 CHAPTER 318

AN ACT TO EXTEND THE EXPIRATION FOR THE PAYMENT OF JUST COMPENSATION BY LOCAL AUTHORITIES REQUIRING THE REMOVAL OF BILLBOARDS WHICH ARE PERMITTED UNDER THE PROVISIONS OF ARTICLE 11 OF CHAPTER 136 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1147 of the Session Laws of 1981 (Regular Session 1982) is amended by deleting from Section 2 the words and figures "June 30, 1984" and inserting the words and figures "June 30, 1989".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1983.

H. B. 764 CHAPTER 319

AN ACT TO AMEND THE LIMITATIONS ON STATE FINANCIAL AID TO AVIATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 63-68 is amended by adding a new subdivision to read:

"(5) Notwithstanding the provisions of this section, the Department of Transportation may allow loans and grants of State funds up to eighty percent (80%) of the total cost of the development of new publicly owned airports identified in the North Carolina Airport System Plan, provided that such funding shall be limited to land acquisition, site preparation, basic runway, taxiway, and apron system construction, together with associated lighting and navigational aids, and construction of the primary aiport access road. Any

airport receiving Federal Airport Aid shall not be eligible for the foregoing eighty percent (80%) State funding, and, further, electronic navigational aids, terminal buildings, access taxiways, and other items eligible for State Airport Aid at the rate of fifty percent (50%) of the nonfederal share of project costs shall not be eligible for the foregoing eighty percent (80%) State funding, even though constructed as part of initial airport development."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1983.

S. B. 67 CHAPTER 320

AN ACT TO MAKE THE CHARITABLE SOLICITATION LICENSURE ACT INAPPLICABLE TO CERTAIN FOUNDATIONS AND TRUSTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131C-5 is amended by rewriting subsection (e) to read:

"Any hospital licensed pursuant to Article 13A of Chapter 131 of the General Statutes and any foundation or department having an established identity with the aforementioned hospital shall not be required to apply for a license; provided, however, that the governing board of the hospital authorizes the solicitation and receives an accounting of the funds collected and expended."

Sec. 2. G.S. 131C-5 is amended by adding a new subsection (g) to read:

"(g) Any public supported community foundation or public supported community trust as defined by G.S. 105-147(16) shall not be required to apply for a license."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1983.

S. B. 252 CHAPTER 321

AN ACT TO AMEND THE COUNTY SPECIAL ASSESSMENTS LAW (G.S. CHAPTER 153A, ARTICLE 9) WITH RESPECT TO SMALL WATERSHEDS, DRAINAGE PROGRAMS, AND MAINTENANCE CHARGES, TO AUTHORIZE COUNTY SPENDING AND TAXES FOR DRAINAGE PROJECTS, AND TO MAKE RELATED CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-185(3) is hereby rewritten to read as follows:

"(3) Acquiring, constructing, reconstructing, extending, renovating, enlarging, maintaining, operating, or otherwise building or improving

a. beach erosion control or flood and hurricane protection works; and

b. watershed improvement projects, drainage projects and water resources development projects (as those projects are defined in G.S. 153A-301)."

Sec. 2. G.S. 153A-186(b) is hereby amended by: (a) inserting at the end of line 1 thereof the words and punctuation "watershed improvement projects, drainage projects and water resources development projects,": (b) inserting in line 1 of G.S. 153A-186(b)(2) the words "or watercourse" immediately following the word "shoreline".

Sec. 3. G.S. 153A-186(c) is hereby amended by rewriting line 5 thereof to read as follows:

"flood and hurricane protection works, watershed improvement projects, drainage projects and water resources development projects, to the distance from the shoreline or watercourse, the".

Sec. 4. G.S. Chapter 153A is hereby amended by adding the following section after G.S. 153A-204:

"§ 153A-204.1. *Maintenance assessments.*—(a) In order to pay for the costs of maintaining and operating a project, the board of commissioners may annually or at less frequent intervals levy maintenance and operating assessments for any project purpose set forth in G.S. 153A-185(3) on the same basis as the original assessment. The amount of these assessments shall be determined by the board of commissioners on the basis of the board's estimate of the cost of maintaining and operating a project during the ensuing budget period, and the board's decision as to the amount of the assessment is conclusive. In determining the total cost to be included in the assessment the board may include estimated costs of maintaining and operating the project, of necessary legal services, of interest payments, of rights-of-way, and of publishing and mailing notices and resolutions. References to 'total costs' in provisions of this Article that apply to maintenance and operating assessments shall be construed to mean 'total estimated costs'. Within the meaning of this section a 'budget period' may be one year or such other budget period as the board determines.

(b) All of the provisions of this Article shall apply to maintenance and operating assessments, except for G.S. 153A-190 through G.S. 153A-193."

Sec. 5. G.S. 153A-440.1 is amended by designating the current text thereof as subsection (a) and by adding at the end thereof the following:

"(b) A county may establish and maintain drainage projects and water resources development projects (as those projects are defined by G.S. 153A-301) and for these purposes may appropriate funds not otherwise limited as to use by law. A county drainage project or water resources development project may also be financed pursuant to G.S. 153A-301, G.S. 153A-185, or by any other financing method available to counties for this purpose."

Sec. 6. G.S. 153A-440.1(a), as so designated by Section 5 of this act, is hereby amended by inserting in line 5 thereof after the reference "153A-301" a comma followed by the reference "G.S. 153A-185".

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1983.

S. B. 410 CHAPTER 322

AN ACT RELATING TO PUBLIC OBLIGATIONS IN REGISTERED FORM.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding thereto a new Chapter to read:

"CHAPTER 159E.

"Registered Public Obligations Act.

"§ 159E-1. *Short title.*—This Chapter may be cited as the 'Registered Public Obligations Act'.

"§ 159E-2. *Definitions.*—As used in this Chapter, the following terms have the following meanings, unless the context otherwise requires:

(1) 'Authorized officer' means any individual required or permitted, alone or with others, by any provision of law or by the issuing public entity, to execute on behalf of the public entity a certificated registered public obligation or a writing relating to an uncertificated registered public obligation.

(2) 'Certificated registered public obligation' means a registered public obligation which is represented by an instrument.

(3) 'Code' means the Internal Revenue Code of 1954, as amended.

(4) 'Commission' means the Local Government Commission.

(5) 'Facsimile seal' means the reproduction by engraving, imprinting, stamping, or other means of the seal of the issuer, official or official body.

(6) 'Facsimile signature' means the reproduction by engraving, imprinting, stamping, or other means of the manual signature.

(7) 'Financial intermediary' means a bank, broker, clearing corporation or other person or the custodian for or nominee of any of them which in the ordinary course of its business maintains registered public obligation accounts for its customers, when so acting.

(8) 'Issuer' means a public entity which issues an obligation.

(9) 'Obligation' means an agreement of a public entity issuer to pay principal and any interest thereon, whether in the form of a contract to repay borrowed money, a lease, an installment purchase agreement or otherwise, and includes a share, participation, or other interest in any such agreement.

(10) 'Official actions' means the actions by statute, order, ordinance, resolution, contract, or other authorized means by which the issuer provides for issuance of a registered public obligation.

(11) 'Official or official body' means the officer or board that is empowered under the laws applicable to an issuer to provide for original issuance of an obligation of the issuer, by defining the obligation and its terms, conditions and other incidents, the successor or successors of any such official or official body, and such other person or group of persons as shall be assigned duties of such official or official body with respect to a registered public obligation under applicable law from time to time. Unless otherwise provided by law, the State Treasurer shall be the 'official' for the issuance of all State obligations.

(12) 'Public entity' means any entity, department, or agency which is empowered under the laws of this State, to issue obligations any interest with respect to which may, under any provision of law, be provided an exemption from the income tax referred to in the Code. The term 'public entity' may thus include, without limitation, this State, an entity deriving powers from and acting pursuant to the State Constitution or a special legislative act, a political subdivision, a municipal corporation, a State university or college, a special district, a public authority and other similar entities.

(13) 'Registered public obligation' means an obligation issued by a public entity pursuant to a system of registration.

(14) 'System of registration' and its variants means a plan that provides:

a. with respect to a certificated registered public obligation, that (i) the certificated registered public obligation specify a person entitled to the registered public obligation or the rights it represents, and (ii) transfer of the certificated registered public obligation and the rights it

represents may be registered upon books maintained for that purpose by or on behalf of the issuer; and

b. with respect to an uncertificated registered public obligation, that (i) books maintained by or on behalf of the issuer for the purpose of registration of the transfer of a registered public obligation specify a person entitled to the registered public obligation and the rights evidenced thereby, and (ii) transfer of the uncertificated registered public obligation and the rights evidenced thereby be registered upon such books.

(15) 'Uncertificated registered public obligation' means a registered public obligation which is not represented by an instrument.

"§ 159E-3. *Declaration of State interest; purposes.*—(a) The Code provides that interest with respect to certain obligations may not be exempt from federal income taxation unless they are in registered form. It is therefore a matter of State concern that public entities be authorized to provide for the issuance of obligations in such form. It is a purpose of this Chapter to empower all public entities to establish and maintain a system pursuant to which obligations may be issued in registered form within the meaning of the applicable provisions of the Code.

(b) Obligations have traditionally been issued predominantly in bearer rather than in registered form, and a change from bearer to registered form may affect the relationships, rights and duties of issuers of and the persons that deal with obligations, and by such effect, the costs. Such effects will impact the various issuers and varieties of obligations differently depending on their legal and financial characteristics, their markets and their adaptability to recent and prospective technological and organizational developments. It is therefore a matter of State concern that public entities be provided flexibility in the development of such systems and control over system incidents, so as to accommodate such differing impacts. It is a purpose of this Chapter to empower the establishment and maintenance, and amendment from time to time, of differing systems of registration of obligations, including system incidents, so as to accommodate the differing impacts upon issuers and varieties of obligations. It is further a purpose of this Chapter to authorize systems that will facilitate the prompt and accurate transfer of registered public obligations and the development of practices with regard to the registration and transfer of registered public obligations in order to maintain market acceptance for obligations of public entities.

"§ 159E-4. *Systems of registration.*—(a) Each issuer, with the approval of the Commission, is authorized to establish and maintain a system of registration with respect to each obligation which it issues. The system may either be (i) a system pursuant to which only certificated registered public obligations are issued, or (ii) a system pursuant to which only uncertificated registered public obligations are issued, or (iii) a system pursuant to which both certificated and uncertificated registered public obligations are issued. The issuer may amend, discontinue and reinstitute any system, from time to time, subject to covenants.

(b) The system shall be established, amended, discontinued, or reinstituted, for the issuer by the official or official body.

(c) The system shall be described in the registered public obligation or in the official actions which provide for original issuance of the registered public obligation, and in subsequent official actions providing for amendments and

other matters from time to time. Such description may be by reference to a program of the issuer which is established by the official or official body.

(d) The system shall define the method or methods by which transfer of the public obligations shall be effective with respect to the issuer, and by which payment of principal and any interest shall be made. The system may permit the issuance of registered public obligations in any denomination to represent several registered public obligations of smaller denominations. The system may also provide for the form of any certificated registered public obligation, or of any writing relating to an uncertificated registered public obligation, for identifying numbers or other designations, for a sufficient supply of certificates for subsequent transfers, for record and payment dates, for varying denominations, for communications to holders or owners of obligations, and for accounting, cancelled certificate destruction and other incidental matters. Unless the issuer otherwise provides, the record date for interest payable on the first or fifteenth day of a month shall be the fifteenth day or the last business day of the preceding month, respectively, and for interest payable on other than the first or fifteenth day of a month, shall be the fifteenth calendar day before the interest payment date.

(e) Under a system pursuant to which both certificated and uncertificated registered public obligations are issued, both types of registered public obligations may be regularly issued, or one type may be regularly issued and the other type issued only under described circumstances or to particular described categories of owners.

(f) The system may include covenants of the issuer as to amendments, discontinuances, and reinstitutions of the system and the effect of such on the exemption of interest from the income tax provided for by the Code.

(g) Whenever an issuer shall issue an uncertificated registered public obligation, the system of registration may provide that a true copy of the official actions of the issuer relating to such uncertificated registered public obligation be maintained by the issuer or by the person, if any, maintaining such system on behalf of the issuer, so long as the uncertificated registered public obligation remains outstanding and unpaid. A copy of such official actions, verified to be such by an authorized officer, shall be admissible before any court of record, administrative body or arbitration panel without further authentication.

(h) Nothing in this Chapter shall preclude a conversion from one of the forms of registered public obligations provided for by this Chapter to a form of obligation not provided for by this Chapter if interest on the obligation so converted will continue to be exempt from the income tax provided for by the Code.

(i) The rights provided by other laws with respect to obligations in forms not provided for by this Chapter shall, to the extent not inconsistent with this Chapter, apply with respect to registered public obligations issued in forms authorized by this Chapter. This includes Subchapter IV of Chapter 159 of the General Statutes and the 'State Debt' provisions of Chapter 142 of the General Statutes.

"§ 159E-5. *Certificated registered public obligations; execution; authentication.*—(a) A certificated registered public obligation shall be executed by the issuer by the manual or facsimile signature or signatures of authorized

officers. Any signature of an authorized officer may be attested by the manual or facsimile signature of another authorized officer.

(b) In addition to the signatures referred to in (a) of this subsection any certificated registered public obligation or any writing relating to an uncertificated registered public obligation may include a certificate or certificates signed by the manual or facsimile signature of an authenticating agent, registrar, transfer agent or the like.

"§ 159E-6. *Certificated registered public obligation; signatures.*—(a) Any certificated registered public obligation signed by the authorized officers at the time of the signing thereof shall remain valid and binding, notwithstanding that before the issuance thereof any or all of such officers shall have ceased to fill their respective offices.

(b) Any authorized officer empowered to sign any certificated registered public obligation may adopt as and for the signature of such officer the signature of a predecessor in office in the event that such predecessor's signature appears on such certificated registered public obligation. An unauthorized officer incurs no liability by adoption of a predecessor's signature that would not be incurred by such authorized officer if the signature were that of such authorized officer.

"§ 159E-7. *Certificated registered public obligation; seal.*—When a seal is required or permitted in the execution of any certificated registered public obligation, an authorized officer may cause the seal to be printed, engraved, stamped, or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

"§ 159E-8. *Agents; depositories.*—(a) An issuer, with the approval of the Commission, may appoint for such term as may be agreed, including for so long as a registered public obligation may be outstanding, corporate or other authenticating agents, transfer agents, registrars, paying or other agents and specify the terms of their appointment, including their rights, their compensation and duties, limits upon their liabilities and provision for their payment of liquidated damages in the event of breach of certain of the duties imposed, which liquidated damages may be made payable to the issuer, the owner or a financial intermediary. None of such agents need have an office or do business within this State.

(b) An issuer may agree with financial intermediaries in connection with the establishment and maintenance by others of a depository system for the transfer or pledge of registered public obligations or any interest therein. Any such financial intermediaries may, if qualified and acting as fiduciaries, also serve as authenticating agents, transfer agents, registrars, paying or other agents of the issuer with respect to the same issue of public obligations.

(c) Nothing in this Chapter shall preclude the issuer from itself performing, either alone or jointly with others, any transfer, registration, authentication, payment, depository or other function described in this section.

"§ 159E-9. *Costs; collection.*—(a) An issuer, prior to or at original issuance of registered public obligations, may provide as a part of a system of registration that the transferor or transferee of the registered public obligations pay all or a designated part of the costs of the system as a condition precedent to transfer, that costs be paid out of proceeds of the registered public obligations, or that both methods be used. The portion of the costs of the system not provided to be paid for by the transferor or transferee or out of proceeds shall be the

responsibility of the issuer. Moneys for the discharge of this responsibility may be appropriated annually.

(b) The issuer may as a part of the system of registration provide for reimbursement or for satisfaction of its responsibility for costs by others. The issuer may enter into agreements with others respecting such reimbursement or satisfaction, may establish fees and charges pursuant to such agreements or otherwise, and may provide that the amount or estimated amount of such fees and charges shall be reimbursed or satisfied from the same sources and by means of the same collection and enforcement procedures and with the same priority and effect as with respect to the obligation.

"§ 159E-10. *Security for deposits.*—Obligations issued by public entities under the laws of one or more states, territories, or possessions of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, which are in registered form, whether or not represented by an instrument, and which, except for their form, satisfy the requirements with regard to security for deposits of moneys of public agencies prescribed pursuant to any law of this State, shall be deemed to satisfy all such requirements even though they are in registered form if a security interest in such obligations is perfected under the laws of this State on behalf of the public agencies whose moneys are so deposited.

"§ 159E-11. *Public records; locations.*—(a) Records, with regard to the ownership of or security interests in registered public obligations, are not subject to inspection or copying under any law of this State relating to the right of the public to inspect or copy public records, notwithstanding any law to the contrary. This provision shall not exempt from public inspection records of ownership of a public entity's own holdings in this type of security.

(b) Registration records of the issuer may be maintained at such locations within or without this State as the issuer shall determine.

"§ 159E-12. *Applicability; determination.*—(a) Unless at any time prior to or at original issuance of a registered public obligation the official or official body of the issuer determines otherwise, this Chapter shall be applicable to such registered public obligation notwithstanding any provision of law to the contrary. When this Chapter is applicable, no contrary provision shall apply.

(b) Nothing in this Chapter limits or prevents issuance of obligations in any other form or manner authorized by law.

(c) Unless determined otherwise pursuant to subsection (a) of this section, the provisions of this Chapter shall be applicable with respect to obligations which have heretofore been approved by vote, referendum or hearing authorizing or permitting the authorization of obligations in bearer and registered form, or in bearer form only, and such obligations need not be resubmitted for a further vote, referendum or hearing for the purpose of authorizing or permitting the authorization of registered public obligations pursuant to this Chapter.

"§ 159E-13. *Construction.*—This Chapter shall be construed in conjunction with the Uniform Commercial Code and the principles of contract law relative to the registration and transfer of obligations.

"§ 159E-14. *Amendment or repeal; effect.*—The State hereby convenants with the owners of any registered public obligations that it will not amend or repeal this Chapter if the effect may be to impair the exemption from income taxation of interest on registered public obligations.

"§ 159E-15. *Severability.*—If any provision or the application of any provision of this Chapter shall be invalid, such shall not affect the validity of other provisions or other applications, it hereby being declared that the provisions or the applications of this Chapter are separable and this Chapter would have been enacted with the invalid provision omitted or without the invalid application in any event."

Sec. 2. G.S. 142-8 is hereby amended by adding a sentence to read: "However, any provisions of G.S. 142-1 to G.S. 142-9 in conflict with the 'Registered Public Obligations Act', Chapter 159E of the General Statutes, shall not apply."

Sec. 3. G.S. 159-92 is amended by inserting the words "represented by instruments" after the words "all revenue bonds".

Sec. 4. The third sentence of G.S. 159-128 is amended to read: "The board may authorize the use of facsimile signatures and seals on the bonds and coupons, if any, but at least one manual signature (which may be the signature of the representative of the Commission to the Commission's certificate) must appear on each bond that is represented by an instrument."

Sec. 5. G.S. 159-129 is rewritten to read:

"§ 159-129. *Obligations of units certified by Commission.*—Each bond or bond anticipation note that is represented by an instrument shall bear on its face or reverse a certificate signed by the secretary of the Commission or an assistant designated by him that the issuance of the bond or note has been approved under the provisions of The Local Government Bond Act of The Local Government Revenue Bond Act. Such signature may be a manual or facsimile signature as the Commission may determine. Each bond or bond anticipation note that is not represented by an instrument shall be evidenced by a writing relating to such obligation, which writing shall identify such obligation or the issue of which it is part, bear such certificate and be on file with the Commission. The certificate shall be conclusive evidence that the requirements of this Subchapter have been observed, and no bond or note without the Commission's certificate or with respect to which a writing bearing such certificate has not been filed with the Commission shall be valid."

Sec. 6. G.S. 159-134 is amended by adding at the end an additional sentence to read: "If an issuing unit employs another person as such fiscal agent or any other person for other services pursuant to the Registered Public Obligations Act of North Carolina, then it may pay reasonable fees for such services not in excess of maximum rates to be fixed by regulation of the Commission."

Sec. 7. The first sentence of G.S. 159-139(2) is amended to read as follows: "Method 2. - The governing board may contract with the bank, trust company or other person acting as fiscal agent for a bond issue for the destruction of bonds and interest coupons which have been cancelled by the fiscal agent."

Sec. 8. G.S. 159-139 is amended by adding a sentence at the end thereof to read: "The information required to be entered in a substantially bound book prior to destruction under either Method 1 or Method 2 may as an alternative, be shown by photocopying, microfilming or other similar method of recording the information by directly reproducing the cancelled documents."

Sec. 9. The catch line and first sentence of G.S. 159-164 are amended to read: "*Form of notes to be issued.*—Bond anticipation loans shall be evidenced

by negotiable notes in bearer form or by certificated or uncertificated registered public obligations pursuant to the Registered Public Obligations Act. Such notes and certificated registered public obligations are hereby declared to be investment securities within the meaning of Article 8 of the Uniform Commercial Code as enacted in this State."

Sec. 10. The third sentence of G.S. 159-172(a) is amended to read: "Notes that are represented by instruments shall be signed with the manual or facsimile signatures of the officers designated by the government board for that purpose, but at least one manual signature (which may be the signature of the representative of the Commission to the Commission's certificate) must appear on each note that is represented by an instrument."

Sec. 11. The second and third sentences of G.S. 159-172(c) are rewritten to read: "Each such note that is represented by an instrument shall bear on its face or reverse a certificate signed by the secretary of the Commission or an assistant designated by him that the issuance of the note has been approved under the provisions of The Local Government Finance Act. Such signature may be a manual or facsimile signature as the Commission may determine. Each note that is not represented by an instrument shall be evidenced by a writing relating to such note, which writing shall identify such note or the issue of which it is a part, bear such certificate and be on file with the Commission. The certificate shall be conclusive evidence that the requirements of this Part have been observed, and no note without the Commission's certificate or with respect to which a writing bearing such certificate has not been filed with the Commission shall be valid."

Sec. 12. G.S. 159-172(d) is amended by inserting between the first and second sentences thereof an additional sentence to read as follows: "The Treasurer shall also collect from their purchaser the purchase price or proceeds of notes that are not represented by instruments."

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1983.

H. B. 444 CHAPTER 323

AN ACT TO PROVIDE FOR SPECIAL LICENSES FOR STREET RODS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-81.8. *Special plates for street rods.*—Every owner of a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to the year 1949, hereinafter referred to as a 'street rod', upon the payment of the registration and licensing fees for the vehicle as required by law and an additional fee of ten dollars ($10.00) shall be issued license plates of the same form and character as other license plates now or hereinafter authorized by law to be issued upon these vehicles except that the license plates shall in addition bear on the face the following words: 'street rod'. The Commissioner of Motor Vehicles may make such rules as, in his discretion, seem necessary with respect to applications for special plates, time for making applications and other matters necessary for the efficient administration of this section."

Sec. 2. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 18th day of May, 1983.

H. B. 484 CHAPTER 324

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE ELECTIONS STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-8 is amended in the last sentence by deleting the phrase "§ 13, Article III," and substituting "Article III, Section 7".

Sec. 2. G.S. 163-25 is amended by adding the following new sentence:

"If the Attorney General recommends employment of private counsel, the State Board may employ counsel with the approval of the Governor."

Sec. 3. G.S. 163-59 is amended in the last sentence by inserting between the word "day" and the word "prior" the following: "(excluding Saturdays and Sundays)".

Sec. 4. G.S. 163-151(6)b is amended in the first sentence by adding after the word "party" the following: "or as an unaffiliated candidate".

Sec. 5. G.S. 163-170(5)c is amended by inserting between the word "party" and the word "for" the following: "or as an unaffiliated candidate".

Sec. 6. G.S. 163-302 is amended by rewriting subsection (b) to read:

"(b) The provisions of Articles 20 and 21 of this Chapter shall apply to absentee voting in municipal elections, special district elections, and other elections for an area less than an entire county other than elections for the General Assembly, except that the earliest date by which absentee ballots shall be required to be available for absentee voting in such elections shall be 30 days prior to the primary or election or as quickly following the filing deadline specified in G.S. 163-291(2) or G.S. 163-294.2(c) as the county board of elections is able to secure the official ballots."

Sec. 7. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of May, 1983.

H. B. 815 CHAPTER 325

AN ACT TO PERMIT THE APPOINTMENT OF TWO AT-LARGE MEMBERS OF THE AERONAUTICS COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-357 is amended by deleting the first sentence thereof and inserting in lieu thereof the following:

"The Aeronautics Council of the Department of Transportation shall consist of 13 members appointed by the Governor, who, in making such appointments, shall designate one person from each of the congressional districts of the State and two members selected at large."

Sec. 2. This amendment shall not affect the validity or tenure of the current members of the Aeronautics Council.

Sec. 3. One of the new at-large members of the Aeronautics Council shall be appointed by the Governor to a term which shall expire on June 30, 1985. Thereafter, the successor shall be appointed for a term of office of four years.

The second new at-large member of the Aeronautics Council shall be appointed by the Governor for a term to expire on June 30, 1983. Thereafter, after the expiration of this term of office, the successor shall be appointed for a term of four years.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1983.

H. B. 477 CHAPTER 326

AN ACT TO INCREASE THE FINE FOR ILLEGALLY PARKING IN A PROPERLY DESIGNATED HANDICAPPED PARKING SPACE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-37.6(f)(1) is amended by deleting "ten dollars ($10.00)" and substituting "twenty-five dollars ($25.00)".

Sec. 2. G.S. 20-37.6(e)(1) is rewritten to read:

"(1) To park or leave standing any vehicle in a space designated with a sign pursuant to subsection (d) of this section for handicapped persons or visually impaired persons when the vehicle does not display the distinguishing license plate or placard as provided in this section."

Sec. 3. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of May, 1983.

S. B. 194 CHAPTER 327

AN ACT TO REWRITE CERTAIN OF THE FOREST LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 113 of the General Statutes is amended to add a new section to read as follows:

"§ 113-53.1. *Forest laws defined.*—The forest laws consist of:

(1) G.S. 14-136 to G.S. 14-140;

(2) Articles 2, 4, 4A, 4C, and 6A of this Chapter;

(3) G.S. 77-13 and G.S. 77-14;

(4) Other statutes enacted for the protection of forests and woodlands from fire, insects, or disease and concerning obstruction of streams and ditches in forests and woodlands; and

(5) Regulations and ordinances adopted under the authority of the above statutes."

Sec. 2. G.S. 113-54 as the same appears in Replacement Volume 1978 of Volume 3A, Part II of the General Statutes, is amended on lines 10 and 11 by deleting the words "for the purposes set out in Articles 4, 4A and 6A of this Chapter"; and is further amended on lines 28 and 34 by deleting the words "Articles 4, 4A and 6A" and substituting therefor the words "Articles 4, 4A, 4C and 6A".

Sec. 3. G.S. 113-55 is amended to add at the end of the caption: "; *authority to issue citations and warning tickets*", to designate the present text of the section as subsection (a), and to add a new subsection to read as follows:

"(b) Forest rangers are authorized to issue and serve citations under the terms of G.S. 15A-302 and warning tickets under the terms of G.S. 113-55.2 for offenses under the forest laws. This subsection may not be interpreted to confer the power of arrest on forest rangers, and does not make them criminal justice officers within the meaning of G.S. 17C-2."

Sec. 4. G.S. 15A-302(a) is amended to read as follows:

"(a) Definition. A citation is a directive, issued by a law enforcement officer or other person authorized by statute, that a person appear in court and answer criminal charges."

Sec. 5. G.S. 113-55.1 is amended to rewrite the third sentence to read as follows: "Forest law enforcement officers shall, in addition to their other duties, have the powers of peace officers to enforce the forest laws."

Sec. 6. Article 4 of Chapter 113 of the General Statutes is amended to add a new section to read as follows:

"§ 113-55.2. *Warning tickets for violations of the forest laws.*—(a) To encourage the cooperation of the public in achieving the objectives of the forest laws, the Secretary may provide for the issuance of warning tickets instead of the initiation of criminal prosecution by forest rangers and forest law enforcement officers. Issuance of the warning tickets shall be in accordance with criteria administratively promulgated by the Secretary within the requirements of this section. Such criteria are not rules as defined under Articles 2 and 5 of Chapter 150A of the General Statutes.

(b) No warning ticket may be issued unless all of the following conditions are met:

(1) The forest ranger or the forest law enforcement officer must be convinced that the offense was not committed intentionally.

(2) The offense is not one, or a type of offense, for which the Secretary has prohibited the issuance of warning tickets.

(3) At the time of the violation it was not reasonably foreseeable that the conduct of the offender could result in any significant destruction of forests or woodlands or constitute a hazard to the public.

(c) A warning ticket may not be issued if the offender has previously been charged with, or issued a warning ticket for, the same or a similar offense within the preceding three years. A list of persons who have been issued warning tickets under this section within the preceding three years shall be maintained and periodically updated by the Secretary.

(d) This section does not entitle any person who has committed an offense to the right to be issued a warning ticket, and the issuance of a warning ticket does not prohibit the later initiation of criminal prosecution for the same offense for which the warning ticket was issued."

Sec. 7. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of May, 1983.

S. B. 117 **CHAPTER 328**

AN ACT TO INCREASE THE MEMBERSHIP OF THE STATE BANKING COMMISSION AND TO SUBJECT THE APPOINTMENT OF THE COMMISSIONER OF BANKS TO CONFIRMATION BY THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. The second paragraph of G.S. 53-92 is amended to read:

"The State Banking Commission, which has heretofore been created, shall consist of the State Treasurer, who shall serve as an ex officio member thereof, 12 members appointed by the Governor, and two members appointed by the General Assembly under G.S. 120-121, one of whom shall be appointed upon the recommendation of the President of the Senate and one of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives. The Governor shall appoint five practical bankers and seven persons selected primarily as representatives of the borrowing public. The person appointed by the General Assembly upon the recommendation of the President of the Senate shall be a practical banker. The person appointed by the General Assembly upon the recommendation of the Speaker of the House shall be a person selected primarily as a representative of the borrowing public. The persons selected primarily as representatives of the borrowing public shall not be employees or directors of any financial institution nor shall they have any interest in any regulated financial institution other than as a result of being a depositor or borrower. Under this section, no person shall be considered to have an interest in a financial institution whose interest in any financial institution does not exceed one-half of one percent (1/2 of 1%) of the capital stock of that financial institution. These members of the Commission shall be selected so as to fully represent the consumer, industrial, manufacturing, professional, business and farming interests of the State. No person shall serve on the Commission for more than two complete consecutive terms. As the terms of office of the appointive members of the Commission expire, their successors shall be appointed by the person appointing them, for terms of four years each. Any vacancy occurring in the membership of the Commission shall be filled by the appropriate appointing officer for the unexpired term, except that vacancies among members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. The appointed members of the Commission shall receive as compensation for their services the same per diem and expenses as is paid to the members of the Advisory Budget Commission. This compensation shall be paid from the fees collected from the examination of banks as provided by law."

Sec. 1.1. G.S. 120-123 is amended by adding a new subdivision to read:

"(3a) The State Banking Commission, as established by G.S. 53-92."

Sec. 2. The initial terms of persons appointed to fill the three positions on the State Banking Commission created in Section 1 of this act shall expire April 1, 1987.

Sec. 3. The first paragraph of G.S. 53-92 is rewritten to read as follows:

"On or before April 1, 1983, and quadrennially thereafter, the Governor shall appoint a Commissioner of Banks subject to confirmation by the General Assembly in joint session. The name of the Commissioner of Banks shall be submitted to the General Assembly on or before February 1, of the year in

which the term of his office begins. The term of office for the Commissioner of Banks shall be four years. In case of a vacancy in the office of Commissioner of Banks for any reason prior to the expiration of his term of office, the name of his successor shall be submitted by the Governor to the General Assembly, not later than four weeks after the vacancy arises. If a vacancy arises in the office when the General Assembly is not in session, the Commissioner of Banks shall be appointed by the Governor to serve on an interim basis pending confirmation by the General Assembly."

Sec. 4. G.S. 53-97 is repealed.

Sec. 5. This act shall become effective June 1, 1983. The term of office of the Commissioner of Banks holding office on the effective date of this act shall not be affected by the provisions of this act.

In the General Assembly read three times and ratified, this the 19th day of May, 1983.

H. B. 157 CHAPTER 329

AN ACT RELATING TO THE CERTIFICATION OF ELECTIONS WHICH ARE CONTESTED

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-181 is rewritten to read as follows:

"§ 163-181. *Certification of election stayed when election is contested.*—The chairman of the county or city board of elections shall not issue a certification of election or nomination or the results of a referendum if there is an election contest pending before the county or city board of election or before the State Board of Elections on appeal or otherwise.

Appeals from a decision of the State Board of Elections shall be to the Superior Court of Wake County.

A copy of the State Board of Elections' final decision shall be served on the parties personally or by certified mail. After the decision by the State Board of Elections has been served on the parties, the certification of election shall issue unless the appealing party petitions the Superior Court of Wake County for a stay of the certification within 10 days after the date of service.

The Superior Court of Wake County shall not issue a stay of certification unless the petitioner shows the court that he intends to appeal the decision of the State Board of Elections and that he is likely to prevail and that the results of the election would be changed in his favor. Mere irregularities in the election which would not change the results of the election shall not be sufficient for the court to issue a stay of certification."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

H. B. 253 CHAPTER 330

AN ACT TO PROVIDE THAT WHEN THE FILING DEADLINE FOR CANDIDACY TO TWO OR MORE PUBLIC OFFICES IS THE SAME, A PERSON MAY NOT FILE AS A CANDIDATE FOR MORE THAN ONE OFFICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-106 is amended by adding a new subdivision to read:

"(h) No person may file a notice of candidacy for more than one office described in subsection (c) of this section for any one election. If a person has filed a notice of candidacy with a board of elections under this section for one office, then a notice of candidacy may not later be filed for any other office under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (e) of this section; provided that this subsection shall not apply unless the deadline for filing notices of candidacy for both offices is the same."

Sec. 2. G.S. 163-291(2) is amended by adding a new sentence at the end to read:

"No person may file a notice of candidacy for more than one municipal office at the same election. If a person has filed a notice of candidacy for one office with the county board of elections under this section, then a notice of candidacy may not later be filed for any other municipal office for that election unless the notice of candidacy for the first office is withdrawn first."

Sec. 3. G.S. 163-294.2 is amended by adding a new subsection to read:

"(f) No person may file a notice of candidacy for more than one municipal office at the same election. If a person has filed a notice of candidacy for one office with the board of elections under this section, then a notice of candidacy may not later be filed for any other municipal office for the election unless the notice of candidacy for the first office is withdrawn first."

Sec. 4. This act shall become effective with respect to elections held on or after September 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

H. B. 386 CHAPTER 331

AN ACT TO MAKE TECHNICAL CORRECTIONS IN THE ELECTIONS STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-108(b) is amended by deleting the word "solicitor" and substituting "district attorney".

Sec. 2. G.S. 163-226.3(a)(4) is amended in the sixth line of that subdivision by adding between the word "guardian" and the word "to" the following words and punctuation: ", or officer authorized to administer oaths acting pursuant to G.S. 163-231(a)(1),".

Sec. 3. G.S. 163-227(b)(1) is amended by striking the word "Wednesday" in the first sentence of that subdivision and substituting "Thursday".

Sec. 4. G.S. 163-251 is amended by rewriting subsections (a) and (b) to read:

"(a) Preparation of List. The chairman of the county board of elections shall prepare, or cause to be prepared, a list in quadruplicate of all military absentee ballots returned to the county board of elections to be counted which have been approved by the county board of elections. At the end of the list the chairman shall execute the following certificate under oath:

'State of North Carolina
County of _____

I, _____, Chairman of the _____County Board of Elections, do hereby certify that the foregoing is a list of all executed military absentee ballots to be voted in the election to be conducted on the _____ day of _____, 19 ___, which have been approved by the County Board of Elections. I further certify that I have issued ballots to no other persons than those listed herein and further that I have not delivered military absentee ballots to persons other than those listed herein; that this list constitutes the only precinct registration of military absentee voters whose names have not heretofore been entered on the regular registration of the appropriate precinct.

This the _____ day of _____ 19_____.

_____
(Signature of Chairman of County Board of Elections)

Sworn to and subscribed before me this _____day of ____19 ____.

_____
(Signature of Officer administering oath)

_____
(Title of officer)'

(b) Distribution of List. No earlier than 3:00 p.m. on the day before the election and no later than 10:00 a.m. on election day, the chairman shall cause one copy of the list of executed military absentee ballots, which may be a continuing countywide list or a separate list for each precinct, to be immediately deposited as first-class mail to the State Board of Elections, Post Office Box 1166, Raleigh, North Carolina 27602. The chairman shall retain one copy in the board office for public inspection and he shall cause two copies of the appropriate precinct list to be delivered to the registrar of each precinct in the county. The registrar shall post one copy in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made as provided in G.S. 163-89.

After receipt of the list of absentee voters required by this section the registrar shall call the name of each person recorded on the list and enter an 'A' in the appropriate voting square on the voter's permanent registration record, if any. If such person is already recorded as having voted in that election, the registrar shall enter a challenge which shall be presented to the chairman of the county board of elections for resolution by the board of elections prior to certification of results by the board."

Sec. 5. G.S. 163-213.2 and 163-283 are each amended in the last sentence by deleting the phrase "21 days" and substituting "the 21st day".

Sec. 6. G.S. 163-278.6(4) is rewritten to read:

"(4) The term 'candidate' means any individual who, with respect to a public office listed in G.S. 163-278.6(18), has filed a notice of candidacy or a petition requesting to be a candidate, or has been certified as a nominee of a political party for a vacancy, or has otherwise qualified as a candidate in a manner authorized by law."

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

H. B. 448 CHAPTER 332

AN ACT TO AMEND SERVICE OF PROCESS IN SUMMARY EJECTMENT CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 42-29 is hereby rewritten to read as follows:

"§ 42-29. *Service of summons.*—The officer receiving the summons shall mail a copy of the summons and complaint to the defendant at his last known address in a stamped addressed envelope provided by the plaintiff to the action. The officer shall attempt to telephone the defendant requesting that the defendant either personally visit the officer to accept service, or schedule an appointment for the defendant to receive delivery of service from the officer. If a telephone call is not possible or is unsuccessful, the officer shall make at least one visit to the place of abode of the defendant at a time reasonably calculated to find the defendant at the place of abode to attempt personal delivery of service. He then shall deliver a copy of the summons together with a copy of the complaint to the defendant, or leave copies thereof at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. If such service cannot be made the officer shall affix copies to some conspicuous part of the premises claimed and make due return showing compliance with this section."

Sec. 2. G.S. 42-28, as it appears in Volume 2A, 1981 Cumulative Supplement, is amended by deleting on line 4 the following punctuation and words:

"(not to exceed five days from the issuing of the summons, without the consent of the plaintiff)."

and by inserting in lieu thereof the following:

"not to exceed 10 days from the issuance of the summons".

Sec. 3. G.S. 7A-217(2) is rewritten to read as follows: "When the defendant is not under any legal disability, he may be served by registered or certified mail as provided in G.S. 1A-1, Rule 4(j). Proof of service is as provided in G.S. 1A-1, Rule 4(j2)."

Sec. 4. This act shall become effective October 1, 1983, and shall apply to process served on or after that date.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

H. B. 649 **CHAPTER 333**

AN ACT TO REVISE THE PARTS OF CHAPTER 162A OF THE GENERAL STATUTES RELATING TO METROPOLITAN SEWERAGE DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162A-65(a)(11) is amended on the seventh line immediately following the word "plants," by adding the words "facilities for the generation and transmission of electric power and energy,".

Sec. 2. G.S. 162A-67(d) is amended in the third paragraph by deleting the seventh and eighth sentences and substituting in lieu thereof the following:

"The members of the district board may receive compensation in an amount to be determined by the board, but not to exceed that compensation paid to members of Occupational Licensing Boards as provided in G.S. 93B-5(a) for each meeting of the board attended and for attendance at each regularly scheduled committee meeting of the board."

Sec. 3. G.S. 162A-69 is amended by adding a new subdivision to read:

"(13a) To adopt ordinances to regulate and control the discharge of sewage into any sewerage system owned or operated by the district. Prior to the adoption of any ordinance or any amendment to any ordinance the district shall first pass a declaration of intent to adopt such ordinance or amendment. The declaration of intent shall describe the ordinance or amendment which it is proposed that the district adopt. The declaration of intent shall be submitted to each governing body for review and comment. The district shall take into consideration any comment and suggestions with respect to the proposed ordinance or amendment offered by any governing body and may modify such proposed ordinance or amendment to reflect comment and suggestions offered by any governing body. Thereafter, the district shall be authorized to adopt such ordinance or any amendment to it at any time after 60 days following the submission of the declaration of intent to each governing body."

Sec. 4. Article 5 of Chapter 162A of the General Statutes is amended by adding a new section to read:

"§ 162A-81. *Adoption and enforcement of ordinances.*—(a) A district shall have the same power as a city under G.S. 160A-175 to assess civil fines and penalties for violation of its ordinances, and may secure injunctions to further insure compliance with its ordinances as provided by this section.

(b) An ordinance may provide that its violation shall subject the offender to a civil penalty of not more than one thousand dollars ($1,000) to be recovered by the district in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance. Any person assessed a civil penalty by the district shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the district within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the district may specify, the district may institute a civil action in the General Court of Justice of the county in which the violation occurred or, in the discretion of the district, in the General Court of Justice of the county in which the person assessed has his or its principal place of business, to recover the amount of the assessment. The validity of the district's action may be appealed directly to General Court of

Justice in the county in which the violation occurred, or may be raised at any time in the action to recover the assessment. Neither failure to contest the district's action directly nor failure to raise the issue of validity in the action to recover an assessment precludes the other.

(c) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate and it shall not be a defense to the application of the district for equitable relief that there is an adequate remedy at law.

(d) Subject to the express terms of an ordinance, a district ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.

(e) An ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

H. B. 784 CHAPTER 334

AN ACT TO AMEND THE BEACH ACCESS PROGRAM RELATING TO LAND ACQUISITION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-134.3 is amended by deleting the ninth sentence, which reads as follows:

"These land acquisition funds shall not be used to purchase property held for less than two years by the current owner."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

S. B. 97 CHAPTER 335

AN ACT TO CLARIFY CERTAIN TIME PERIODS RELATING TO FORECLOSURES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-21.16(a) is amended in the third sentence by deleting the number "10" and substituting in lieu thereof the number "20".

Sec. 2. G.S. 45-21.21(d) is amended by deleting the number "30" and inserting the number "20" in the subsection (d).

Sec. 3. This act shall become effective on October 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

S. B. 168 **CHAPTER 336**

AN ACT TO DEDICATE FUNDS FOR THE HENDERSON COUNTY COURTHOUSE.

The General Assembly of North Carolina enacts:

Section 1. In adopting its budget in accordance with the provisions of Chapter 159 of the General Statutes, the Board of County Commissioners of Henderson County shall set aside the following amounts to be used only to fund construction or renovation of courtroom facilities for all levels of the General Court of Justice for Henderson County: two hundred thousand dollars ($200,000) for fiscal year 1983-84; four hundred thousand dollars ($400,000) for fiscal year 1984-85; six hundred thousand dollars ($600,000) each year for fiscal years 1985-86, 1986-87, 1987-88, 1988-89; and eight hundred thousand dollars ($800,000) each year for fiscal years 1989-90, 1990-91, 1991-92, and 1992-93. Such courtroom facilities may include a jail and law enforcement facilities.

Any amount so appropriated during any fiscal year which is not expended for the designated purposes during that year shall not revert into the general fund of the county and shall continue to be held for the designated purposes. Such amounts may not be used to fill any succeeding year's appropriation.

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

S. B. 352 **CHAPTER 337**

AN ACT TO CHANGE THE BOUNDARY BETWEEN THE FAIRMONT CITY AND ROBESON COUNTY ADMINISTRATIVE SCHOOL UNITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 256, Public-Local Laws of 1939 as amended by Chapter 569, Session Laws of 1969, is amended by deleting the following words: "thence a direct line to the intersection of a road leading from the Iona-McDonald road with the road leading from the old Fairmont-Rowland road to Reedy Branch, near Turner Branch; thence with the road leading from the Iona-McDonald road as above stated to the said Iona-McDonald road; thence down the Iona-McDonald road to the old Fairmont-Rowland road near Iona Church; thence with the old Fairmont-Rowland road to Horse Swamp; thence down the run of Horse Swamp to Ashpole Swamp", and inserting the following in lieu thereof:

"Thence a direct line in a Southwestern direction to a point in the center of Secondary Road 2428 that is 900 ft. Southeast of the centerline intersection of Secondary Road No. 2428 and Secondary Road No. 2431; thence parallel to and 807.6 ft. at right angles Southeast of the centerline of Secondary Road 2431 in a Southwestern direction to a point that is 807.6 ft. at right angles Southeast of the center of Secondary Road 2431; thence perpendicular to the centerline of Secondary Road 2431 in a Northwestern direction 807.6 ft. to a point in the center of Secondary Road 2431 that is 460 ft. Northeast of the centerline intersection of Secondary Road 2431 and Secondary Road 2430; thence as and beyond the centerline of secondary road 2431 due West to the run of Horse Swamp; thence down the run of Horse Swamp to Ashpole Swamp".

Sec. 2. Nothing herein is to be construed as to modify any changes in the Fairmont Administrative Unit since 1939 including, but not limited to, the addition of the Barnsville Area in Chapter 161, Session Laws of 1969, and the deletion of the Fairgrove Area, by Chapter 256 of the Session Laws of 1969.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

S. B. 365 CHAPTER 338

AN ACT TO RAISE THE COMPENSATION OF THE MOORE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 337, Session Laws of 1975, is amended by deleting "twenty dollars ($20.00)" both places it appears and inserting in lieu thereof "fifty dollars ($50.00)", and by deleting "twelve cents (12¢)", and inserting in lieu thereof "twenty-one cents (21¢)".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

S. B. 369 CHAPTER 339

AN ACT TO PERMIT THE NASH COUNTY BOARD OF COMMISSIONERS TO APPROPRIATE ADDITIONAL FUNDS FOR INDUSTRIAL DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 368, Session Laws of 1957, as amended by Chapter 40, Session Laws of 1981, is further amended by deleting the words "seventy-five thousand dollars ($75,000) annually", and inserting in lieu thereof the words "one hundred thousand dollars ($100,000) annually".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

S. B. 374 CHAPTER 340

AN ACT FOR A PROGRAM FOR BASIC AND VOCATIONAL SKILLS AT GRADES SEVEN AND EIGHT.

The General Assembly of North Carolina enacts:

Section 1. Program established. The State Board of Education shall establish a program for basic and vocational skills at grades 7 and 8.

Sec. 2. Purpose. The purpose of this program shall be to establish models for under-achieving students in grades 7 and 8 which will combine remedial instruction in the basic skills with introductory hands-on and orientation experiences in vocational education.

Sec. 3. Goals. The specific goals of the program shall be:

(1) To provide a comprehensive instructional program which will keep these high-risk students in school until graduation.

(2) To identify and correct the students' learning deficiencies in the basic skills.

(3) To provide a broad range of introductory, vocational skills which will prepare the students for further specific training in the high school and later entry into either advanced training programs or the job market.

(4) To provide an introduction to the world-of-work, career paths, work ethics, and the responsibilities of productive citizenship.

Sec. 4. Emphases. The specific emphases of the program shall be:

(1) Providing students in grades 7 and 8 the opportunity to enroll in an instructional program that will combine a strong emphasis on basic academic learning (reading, mathematics, social studies and science) with hands-on experiences in occupational areas (manufacturing, construction, communications, energy and power, typing, and microcomputers).

(2) Emphasizing the importance of good work habits and basic work ethics.

(3) Establishing programs in the seventh grade in 16 middle/junior high schools during the 1983-84 school year, and expanding the programs to include the eighth grade during the 1984-85 school year.

Sec. 5. Program participants.

(1) In 1983-84, 50 under-achieving/high-risk seventh grade students from each of the 16 approved schools shall participate in the program.

(2) In 1984-85, the same 50 students from each school who were in the program during 1983-84, plus an additional group of 50 seventh graders per school who will begin the program shall participate in the program.

Sec. 6. Administration. There is hereby created a nine member committee to make recommendations for participating schools to the State Board of Education. The members shall be appointed as follows:

(1) three members by the State Board of Education;

(2) three members by the Lieutenant Governor;

(3) three members by the Speaker of the House.

Participating schools and participating students shall be selected and the program shall be administered in accordance with the Proposed Project Description for Basic and Vocational Skills Program at Grades 7 and 8 adopted by the State Board of Education on April 6, 1983. Schools not selected to participate in the program may administer their own programs in accordance with the project description adopted by the State Board with such funds as may be available. Those schools administering their own programs shall keep the State Board informed regarding those programs.

Sec. 7. Evaluation. The State Board of Education shall evaluate this program and shall report to the General Assembly by April 1, 1984 and by April 1, 1985.

Sec. 8. The act shall not be effective until sufficient money is appropriated to implement the program.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

S. B. 431 **CHAPTER 341**

AN ACT TO CLARIFY THAT CONDOMINIUMS IN THE TOWN OF ATLANTIC BEACH SHALL BE CONSIDERED TO BE TRACTS OF FIVE ACRES OR LESS FOR THE PURPOSE OF THE ANNEXATION LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-41 is amended by adding a new subdivision to read:

"(3) A condominium unit as defined in Chapter 47A of the General Statutes shall be considered a 'lot or tract five acres or less in size' for purposes of determining the character of an area to be annexed as provided in G.S. 160A-36(c)."

Sec. 2. This act applies to the Town of Atlantic Beach only.

Sec. 3. This act is effective upon ratification but does not affect pending litigation.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

S. B. 497 **CHAPTER 342**

AN ACT TO AUTHORIZE THE COMMISSIONERS OF THE TOWN OF LOUISBURG TO CONVEY CERTAIN PROPERTY TO LOUISBURG COLLEGE, INC., A NORTH CAROLINA CORPORATION.

The General Assembly of North Carolina enacts:

Section 1. The Commissioners of the Town of Louisburg are authorized and empowered to execute and deliver a deed conveying to Louisburg College, Inc., a North Carolina Corporation, all the right, title and interest of the said Town of Louisburg in and to the following described land and easements: That certain lot lying and being in the Town of Louisburg and on the west side of Cedar Street and containing 6,000 square feet as the same is platted, planned and recorded in a map by Phil R. Inscoe, R.L.S., entitled "Map of Lot Surveyed for the Town of Louisburg and Location of Standpipe on Same" and recorded in Map Book 5, Page 14 of the Franklin County Registry, and all the right, title and interest of the Town of Louisburg in and to any easement resulting from an 8-inch water line leading from the property hereinabove described to Cedar Street and a 10-inch water line leading from the property hereinabove described to a fire hydrant located southeast of the subject property, both said water lines shown and defined on a map by William T. Dement, Jr., R.L.S., entitled "Boundary and Topographic Survey, Louisburg College, Inc.," as the same is platted, planned and recorded in Plat Record File 2, Slide 44A, Franklin County Registry. The Commissioners of the Town of Louisburg are authorized and empowered to execute and deliver the said deed for the property hereinabove described at private sale, notwithstanding the provisions of Article 12 of Chapter 160A of the General Statutes, upon the payment to the town from Louisburg College, Inc., a North Carolina Corporation, of the sum of one dollar ($1.00).

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1983.

H. B. 219 CHAPTER 343

AN ACT TO AUTHORIZE WAKE COUNTY DEPUTY SHERIFFS TO PURCHASE THEIR REVOLVERS.

The General Assembly of North Carolina enacts:

Section 1. When a Wake County deputy sheriff resigns, the Wake County sheriff may, in his sole discretion, permit that deputy to purchase the service revolver issued to and carried by him at a price equal to the replacement cost to the department.

Sec. 2. This act is effective upon ratification, and shall apply to Wake County only.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 530 CHAPTER 344

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF A SPECIAL DEPUTY PROGRAM FOR THE SHERIFFS OF CASWELL, DAVIDSON, EDGECOMBE, GRANVILLE, GUILFORD, HALIFAX, PERSON, VANCE AND WARREN COUNTIES AND TO MAKE THE NORTH CAROLINA WORKER'S COMPENSATION ACT APPLICABLE TO MEMBERS OF THE SPECIAL DEPUTY PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. The Sheriffs of Caswell, Davidson, Edgecombe, Granville, Guilford, Halifax, Person, Vance and Warren Counties may provide for the organization, recruiting, training, equipping, and appointing of special deputies in the Counties of Caswell, Davidson, Edgecombe, Granville, Guilford, Halifax, Person, Vance and Warren.

Duly appointed special deputies shall, while training and while performing duties on behalf of the Counties of Caswell, Davidson, Edgecombe, Granville, Guilford, Halifax, Person, Vance and Warren incidental to their appointment, be entitled to worker's compensation benefits to the same extent as employees of the Sheriff's Department who are regular Deputy Sheriffs I. Compensation payments to special deputies at the time of the injury shall be based upon the entrance salary of a regular Deputy Sheriff I.

Special deputies shall not be entitled to remuneration for their services unless called into active duty by the Sheriffs of Caswell, Davidson, Edgecombe, Granville, Guilford, Halifax, Person, Vance and Warren Counties in which event they may receive such compensation for their services as shall be fixed by the Board of County Commissioners for the Counties of Caswell, Davidson, Edgecombe, Granville, Guilford, Halifax, Person, Vance and Warren. Special deputies shall not be entitled to any benefits of compensation other than those provided by or pursuant to this section. This subsection shall not, in any manner, affect the rights of any person to benefits provided by the State of North Carolina or by act of Congress for civilian defense workers or special deputy sheriffs.

The Counties of Caswell, Davidson, Edgecombe, Granville, Guilford, Halifax, Person, Vance and Warren shall be entitled to the same immunities with respect to the action of special deputies in the performance of their duties

or training or otherwise, to which it is entitled with respect to the actions of regular deputy sheriffs in the performance of their duties.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 569 CHAPTER 345

AN ACT TO ANNEX A CERTAIN TRACT OF LAND TO THE TOWN OF MURPHY.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Murphy are extended to include the area within the following description:

Beginning at a point at the center and the mouth of Britton Branch where it intersects Valley River on the West side, having North Carolina Grid Coordinate of X = 498,759.7 feet and Y = 528,155.2 feet, and runs thence up and with the West bank of Valley River the following ten courses: North 10 degrees 42 minutes West 56.37 feet; North 04 degrees 24 minutes East 137.00 feet; North 18 degrees 37 minutes East 148.91 feet; North 19 degrees 45 minutes East 132.97 feet; North 21 degrees 55 minutes East 100.56 feet; North 27 degrees 16 minutes East 232.63 feet; North 26 degrees 47 minutes East 241.34 feet; North 28 degrees 55 minutes East 108.01 feet; North 09 degrees 52 minutes East 97.85 feet; and North 27 degrees 18 minutes East 74.94 feet to a point in the Northwest margin of High School Road (13 feet from the centerline) off the Northwest corner of the bridge across Valley River; thence with the Northwest margin of said road North 59 degrees 51 minutes West 149.00 feet to a point in the East margin of Valley River Avenue (13 feet from the centerline), thence with the East margin of Valley River Avenue the following eight courses: North 30 degrees 06 minutes East 158.56 feet; North 32 degrees 00 minutes East 100.28 feet; North 34 degrees 40 minutes East 99.95 feet; North 39 degrees 37 minutes East 100.08 feet; North 44 degrees 51 minutes East 99.84 feet; North 50 degrees 06 minutes East 99.56 feet; North 53 degrees 19 minutes East 99.90 feet; and North 54 degrees 56 minutes East 547.61 feet to a point in the East margin of Valley River opposite its approximate intersection with centerline of State Road Number 1367; thence leaving the Southeastern margin of Valley River Avenue one course: South 35 degrees 04 minutes East 80.60 feet to a point on the North bank of Valley River; thence up and with the North bank of Valley River the following four courses: North 71 degrees 53 minutes East 105.13 feet; South 80 degrees 45 minutes East 115.42 feet; South 74 degrees 27 minutes East 299.76 feet; and South 54 degrees 54 minutes East 53.08 feet to a TVA concrete monument designated as HR 371-3 the Southwest corner of Valley Village Shopping Center; thence two courses with Valley Village Shopping Center and the North bank of Valley River: South 23 degrees 50 minutes East 10.0 feet and South 69 degrees 21 minutes East 351.67 feet; thence leaving Valley River and running with the East line of Valley Village Shopping Center the following seven courses: North 25 degrees 33 minutes East 97.70 feet; North 88 degrees 42 minutes East 45.0 feet; North 32 degrees 21 minutes East 200.10 feet; North 09 degrees 06 minutes West 62.50 feet; North 39 degrees 14 minutes East 353.0 feet; North 09 degrees 23 minutes West 280.01 feet; and North 11 degrees 35 minutes West 275.40 feet to the Northeast corner of Valley Village Shopping

Center on the Southern right of way 30 feet from the centerline of Valley River Avenue; thence North 13 degrees 36 minutes West 19.81 feet to a point on the South margin of Valley River Avenue, thence crossing Valley River Avenue North 35 degrees 04 minutes West 25.0 feet to the North margin of Valley River Avenue, thence North 35 degrees 04 minutes West 300.0 feet to a point, thence with a line parallel to the centerline of Valley River Avenue South 54 degrees 56 minutes West 600.0 feet to a point, thence North 35 degrees 04 minutes West 325.0 feet to a point, thence in a Southwesterly direction paralleling the centerline of Valley River Avenue and U.S. 19 & 129 Business the following eight courses: South 54 degrees 56 minutes West 1449.45 feet; South 53 degrees 26 minutes West 118.36 feet South 50 degrees 32 minutes West 136.04 feet; South 45 degrees 50 minutes West 159.31 feet; South 40 degrees 35 minutes West 159.43 feet; South 35 degrees 33 minutes West 156.01 feet; South 32 degrees 12 minutes West 146.81 feet; and South 30 degrees 34 minutes West 560.72 feet to a point in the West property line of the Saint Williams Catholic Church; thence with the West property line of Saint Williams Catholic Church and the East line of Ramsey North 55 degrees 56 minutes West 477.12 feet to a point, a common corner of Payne, Ramsey, and Saint Williams Catholic Church; thence with the line of Payne the following two courses: North 56 degrees 06 minutes West 113.75 feet; and North 82 degrees 16 minutes West 231.46 feet to a point in the centerline of Pleasant Valley Road at its intersection with Regal Street; thence with Regal Street North 82 degrees 16 minutes West 103.74 feet to a point in the centerline of Britton Branch; thence down Britton Branch in a Southeasterly direction and with the existing corporate limits the following twenty-three courses: South 21 degrees 10 minutes East 275.77 feet; South 33 degrees 35 minutes East 268.30 feet; South 65 degrees 25 minutes East 97.50 feet; South 23 degrees 18 minutes East 60.90 feet; South 39 degrees 43 minutes West 90.70 feet; South 72 degrees 02 minutes East 136.60 feet; South 03 degrees 18 minutes West 194.60 feet; South 34 degrees 10 minutes East 274.20 feet; South 40 degrees 58 minutes East 230.20 feet; South 43 degrees 52 minutes East 172.80 feet; North 31 degrees 17 minutes East 33.60 feet; South 44 degrees 43 minutes East 58.50 feet; South 57 degrees 49 minutes East 129.60 feet; South 00 degrees 16 minutes East 21.60 feet; South 88 degrees 33 minutes West 50.50 feet; South 23 degrees 14 minutes East 27.80 feet; South 00 degrees 24 minutes West 62.0 feet; South 84 degrees 18 minutes East 49.60 feet; South 87 degrees 16 minutes East 69.00 feet; North 77 degrees 34 minutes East 107.60 feet; North 58 degrees 50 minutes East 37.60 feet; South 11 degrees 15 minutes East 88.10 feet; and South 56 degrees 08 minutes East 24.26 feet to the center of the mouth of Britton Branch, the point of beginning, containing 88.5 acres more or less.

Sec. 2. This act shall become effective on the last day of the month it is ratified and property taxes shall be prorated as provided in G.S. 160A-58.10.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 574

CHAPTER 346

AN ACT TO ALLOW THE TOWN OF MAIDEN TO MAKE STREET IMPROVEMENTS AND ASSESS THE COST AGAINST ABUTTING PROPERTY OWNERS WITHOUT A PETITION.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Maiden, as contained in Chapter 103, Private Laws of 1883, as amended, is further amended by adding a new section to read:

"Sec. 9.1. Assessments for Street Improvements; Petition Unnecessary.

(a) In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Town Council is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this section.

(b) The Council may order one-time street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes without the necessity of a petition, upon the finding by Council as facts:

(1) That the street improvement project does not exceed 1,800 linear feet; and

(2) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement; or

(3) That it is in the public interest to connect two streets or portions of a street already improved.

(c) For the purposes of this section, the term 'street improvement' shall include grading, surfacing, paving and the construction of curbs, gutters, and street drainage facilities.

(d) In ordering street improvements without a petition and assessing the costs thereof under authority of this section, the Town Council shall comply with the procedure provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

(e) The effect of the act of levying assessments under the authority of this section shall for all purposes be the same as if the assessments were levied under the authority of Article 10 of Chapter 160A of the General Statutes."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 590 CHAPTER 347

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON TO DELETE REFERENCES TO THE POSITION OF CITY TREASURER.

The General Assembly of North Carolina enacts:

Section 1. Section 3.9 of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws is amended by deleting the words "; provided, the council may select one of its members to act as city treasurer".

Sec. 2. Section 9.3 of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws is repealed.

Sec. 3. Section 9.5 of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws is amended by deleting the words ", city treasurer,".

Sec. 4. Section 9.6 of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws is amended by deleting the words "city treasurer,".

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 591 CHAPTER 348

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON TO PROVIDE FOR THE LICENSING AND REGULATION OF VEHICLES FOR HIRE.

The General Assembly of North Carolina enacts:

Section 1. That Chapter 495 of the 1977 Session Laws, being the Charter of the City of Wilmington, is amended by adding Section 27.2 to Article XXVII, to read:

"Section 27.2. Regulation and licensing of vehicles for hire.

(a) The city council may by ordinance license and regulate all vehicles operated for hire in the city. The ordinance may:

(1) Require that drivers and operators of vehicles for hire engaged in the transport of passengers over the public streets to obtain a license or permit from the city.

(2) Specify the types of services which are legal in the municipality, consistent with the provisions of G.S. 160A-304.

(3) Establish the procedures and reasons for issuing, refusing to issue, or for revoking a permit, which may include those factors set forth in G.S. 160A-304.

(4) Require the display in or on the vehicles, of any permit, schedule of fares, photograph of the driver or any other identifying or informational matter deemed appropriate.

(5) Establish the rates which may be charged by the operator of a vehicle for hire.

(6) Set or limit the number of licenses which may be issued.

(7) Grant franchises on such terms as the council deems advisable.

(8) Delegate the authority to administer any regulations established by the city council to the city manager or his designee.

(9) Regulate the health of any driver, the physical condition of any vehicle, or the health of any animal utilized in the operation of a vehicle for hire.

(10) Provide for procedures to appeal any decision to refuse to issue or to revoke any license or permit required by the ordinance.

(11) Establish standards of service to be provided by anyone licensed to own or operate a vehicle for hire.

(12) Place such other reasonable regulations on the operation of a vehicle for hire as the council may deem necessary.

(b)For purposes of this section, 'vehicle for hire' shall mean any motor vehicle, animal-drawn vehicle or other conveyance, other than a bus operated by the city transit system, that is used to transport passengers for a fee payable by such passengers but is exempted from regulation by the North Carolina Utilities Commission under the provisions of G.S. 62-260."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 616 CHAPTER 349

AN ACT REGARDING RETENTION AND DESTRUCTION OF LIBRARY BOOKS IN DARE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-398 is amended by designating the present language as subsection (a) and adding a new subsection to read:

"(b) A person is guilty of a misdemeanor punishable by a fine of not more than fifty dollars ($50.00), public service working in the library at the direction of the librarian for not more than 24 hours as a condition of probation, imprisonment for not more than 30 days, or any combination thereof if he:

(1) willfully or intentionally fails to return to a public library any library item within 30 days after the librarian or his agent has served by certified mail or delivered in person a written notice that the time for which that library item may be kept has expired; or

(2) willfully or intentionally removes from the premises of a public library any library item without checking it out in accordance with the posted regulations of the library; or

(3) willfully or wantonly damages, defaces, mutilates, or otherwise destroys any library item.

A copy of this statute shall be posted in all public libraries and shall appear on the face of all notices mailed or delivered pursuant to subdivision (1).

For purposes of this subsection, 'library item' includes any book, picture, engraving, map, magazine, pamphlet, newspaper, manuscript, film, recording, or other specimen, work of literature, or object of art or of historical significance, or any audio-visual or other equipment owned or in use by the library.

This subsection applies to Dare County only."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 618 **CHAPTER 350**

AN ACT TO REVISE THE CHARTER OF THE CITY OF LUMBERTON.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of the second paragraph of Section 12 of Article V of the Charter of the City of Lumberton, being Chapter 115, Session Laws of 1963, is repealed.

Sec. 2. Section 12(5) of Article V of the Charter of the City of Lumberton, being Chapter 115, Session Laws of 1963, is amended by deleting the word "public".

Sec. 3. Article XII of the Charter of the City of Lumberton, being Chapter 115, Session Laws of 1963, as amended by Chapter 550, Session Laws of 1963, is repealed.

Sec. 4. Section 7 (c)(4) of Article II of the Charter of the City of Lumberton, being Chapter 115, Session Laws of 1963, is amended in the second sentence by deleting "five members" and inserting in lieu thereof "six members".

Sec. 5. Section 1(a) of Article III of the Charter of the City of Lumberton, as amended by Chapter 282, Session Laws of 1965, is repealed.

Sec. 6. Section 2(b) of Article III of the Charter of the City of Lumberton, being Chapter 115, Session Laws of 1963, as amended by Chapter 282, Session Laws of 1965, and Chapter 237, Session Laws of 1967, is repealed.

Sec. 7. Sections 3 through 9 of Article III of the Charter of the City of Lumberton, being Chapter 115, Session Laws of 1963, as amended by Chapter 222, Session Laws of 1963, Chapter 282, Session Laws of 1965, and Chapter 237, Session Laws of 1967, are repealed, except that Section 9(c) is not repealed.

Sec. 8. Section 9(d) of Article IV of the Charter of the City of Lumberton, being Chapter 115, Session Laws of 1963, is amended by deleting "not sooner than thirty days and not later than sixty days" and inserting in lieu thereof "not sooner than fifty days and not later than eighty days".

Sec. 9. Section 5(c) of Article X of the Charter of the City of Lumberton, being Chapter 115, Session Laws of 1963, is rewritten to read:

"(c) Any person receiving a citation or ticket for any traffic violation may pay through the traffic bureau the amount set by the council as payment of the civil penalty and be discharged."

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 623 **CHAPTER 351**

AN ACT TO INCORPORATE THE TOWN OF KING IN STOKES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Charter for the Town of King shall be as follows:

"Article I.

"Incorporation and Corporate Powers.

"Section 1.1. Incorporation. The citizens of the area described in Chapter II of this Article shall be and constitute a body politic and corporate under the

name of 'Town of King', and shall have all of the powers, authority, rights, privileges, and immunities conferred upon municipal corporations by the Constitution and general laws of North Carolina.

"Sec. 1.2. Powers. The Town shall have all the powers, duties, rights, privileges and immunities now vested in the Town and now or hereafter granted to municipal corporations by the Constitution, by the general laws of the State of North Carolina, and by this Charter. The Town shall exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, and general welfare of the Town and of its citizens, unless otherwise prohibited in this Charter.

"Article II.

"Corporate Boundaries.

"Sec. 2.1. Until changed in accordance with law, the boundaries of the Town are:

BEGINNING at a point on Stokes-Forsyth County line 300 feet on northside of King-Tobaccoville Road, running parallel to King-Tobaccoville Road north to Frank Fowler-Richard Stone property, thence west following said property west and north to Andrew Loggin property, thence west and following the Sub-Division of Worthing-Way to 300 feet from Meadowbrook Drive, thence west parallel to Meadowbrook Drive to Highway 52, thence following Highway 52 centerline North to the southwest corner of Meadowbrook Estates, then north to Crooked Run Creek, then following said Creek east to Jack Hooker property, following said property lines to Pilot View Sub-Division to a point 300 feet west of Pilot View Drive, thence north parallel to Pilot View Drive to King Arthur Court, thence direct west to intersect of centerline of White Road, thence north crossing Dalton Road, railroad track, and 600 feet north of Old Highway 52, thence east to Keith Fowler property, thence north along said property lines to Brentwood 2 Sub-Division following said Sub-Division to Holly Hills Sub-Division, thence following said Sub-Division to and following Harold Boyles property line to Danbury Creek, following said creek northwest to Country Place Sub-Division, following the entire Sub-Division boundary lines to Brown Road thence to intersect with Brentwood 3 Sub-Division, following said Sub-Division to 300 feet east of Southern Road, thence south paralleling Southern Road to 600 feet north of Old 52 Highway, thence east to within 300 feet of mountain view Road, thence North to a point that intersects with an east-west line of Shelton-Kiser property, following east along said property lines to the Woodcreek Sub-Division, thence north and subsequently the Sub-Division property lines to the southeast corner of Ed Shelton property line, thence following said property line south to 300 feet south of Helsabeck Road, thence west to Fair Oaks Sub-Division following said Sub-Division property lines south and extended across Old Highway 52 to railroad tracks, thence northwest to within 300 feet east of Kirby Road, thence following Kirby Road to 300 feet north of Spainhour Road, thence east to and following the entire line of the Dunwoody Sub-Division, thence following the southeast line of Dunwoody Sub-Division, south in a straight line to the Stokes-Forsyth County line, thence west along said county line to a point of BEGINNING.

"Sec. 2.2. In taking any action under Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes, the town council may not adopt an annexation ordinance unless at or prior to the public hearing, a petition favoring the

annexation and signed by a majority of the registered voters in the area to be annexed is presented to the council.

"Article III.

"Governing Body.

"Sec. 3.1. Number of members. The elective officers of the city shall be a Mayor and town council composed of four members.

"Sec. 3.2. Manner of election. The Mayor shall be elected by and from the qualified voters of the town at large. The Town Council shall be elected by and from the qualified voters of the town at large.

"Sec. 3.3. Results. (a) Elections shall be conducted by the Stokes County Board of Election, unless provided otherwise.

(b) The election shall be conducted under the nonpartisan plurality method, and the results determined in accordance with G.S. 163-292.

"Sec. 3.4. Term of office. The Mayor shall be elected in 1983 and quadrennially thereafter for a four-year term. In 1983, the two candidates for council receiving the highest number of votes shall be elected for four-year terms, and the two candidates for council receiving the next highest number of votes shall be elected for two-year terms. In 1985 and biennially thereafter, two council members shall be elected for four-year terms.

"Article IV.

"Form of Government.

"Sec. 4.1. The Town shall operate under the Council-Manager form of Government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes."

Sec. 2. Interim budget. The Town Council may adopt a budget ordinance for the 1983-84 fiscal year, following their qualification for office, without having to comply with the budget preparation and adoption timetable set out in the Local Government Budget and Fiscal Control Act. If the initial budget is adopted after January 1, 1984, then taxes may be paid at par on face amount within 90 days of adoption of the budget, and thereafter according to the schedule in G.S. 105-360 as if the taxes had been due on September 1, 1983.

Sec. 3. Special election for approval. (a) The Board of Elections in Stokes County is hereby authorized and directed to call and conduct a special election on a date to be set by the Stokes County Board of Commissioners not earlier than 90 days after ratification of this act but not later than September 15, 1983 for the purpose of submitting to the qualified voters of the area heretofore described as the proposed corporate limits of the Town of King, the question of whether or not such area shall be incorporated as a municipal corporation known as the Town of King. In conducting the election required to be held by this act, the Board of Elections of Stokes County shall follow the procedures contained in G.S. 163-288.2, in this act, and the procedures contained in Chapter 163 of the General Statutes of North Carolina regarding municipal elections.

(b) In the special election, those voters who favor the incorporation of the Town of King as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of the Town of King"; and those voters who are opposed to the incorporation of the Town of King as provided in this act shall vote a ballot upon which shall be printed the words "AGAINST Incorporation of the Town of King".

(c) If the majority of the votes cast in such special election shall be cast "AGAINST Incorporation of the Town of King", then the provisions of Sections 1, 2, 4, 5, and 6 of this act shall have no force and effect, except that the county commissioners may call a second special election to be held between July 1, 1984 and June 30, 1985 on the same question, and if such question is approved at the second special election, then subsection (d) of this section applies, Section 2 of this act is amended by substituting "1985-86" for "1983-84", by changing "January 1, 1984" to "January 1, 1985", and by changing "September 1, 1983" to "September 1, 1985", and Section 3.4 of the Charter is amended by deleting "1983", and inserting "1985", and by deleting "1985", and inserting "1987".

(d) If a majority of the votes cast in the special election shall be cast "FOR Incorporation of the Town of King", then the provisions of Sections 1, 2, 4, 5 and 6 of this act shall be in full force and effect from and after the date upon which the Stokes County Board of Elections determines the results of the election.

Sec. 4. Vacancies. The provisions of G.S. 160A-63 shall not apply to the Town of King until after the first election for Town Council.

Sec. 5. G.S. 160A-44 is amended by deleting "to the Town of King in Stokes County, nor".

Sec. 6. Chapter 876, Session Laws of 1965, Chapter 1194, Session Laws of 1969, and Chapter 228, Session Laws of 1971, are repealed.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 625 CHAPTER 352

AN ACT TO ALLOW THE ASHEVILLE CITY BOARD OF EDUCATION TO PAY ITS TEN-MONTH EMPLOYEES ON OR BEFORE THE TENTH DAY OF EACH MONTH.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Chapter 115C of the General Statutes, the Asheville City Board of Education may pay employees who are employed on a ten-month basis on or before the tenth day of each month during which they are employed.

Sec. 2. This act shall not be construed to authorize prepayment of any employees by the Asheville City Board of Education.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 636 CHAPTER 353

AN ACT TO ALLOW CLAY COUNTY TO DISPOSE OF CERTAIN PROPERTY AT PRIVATE SALE.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the County of Clay is authorized to convey at private sale, with or without monetary consideration, its right, title, and interest to the following parcel of land: That parcel of land described in Book 105, Page 119, Clay County registry, which is approximately 21.5 acres.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 637 CHAPTER 354

AN ACT TO ALLOW THE COUNTY OF GRAHAM TO EXCHANGE PROPERTY WITH THE UNITED STATES FOREST SERVICE.

The General Assembly of North Carolina enacts:

Section 1. The County of Graham may exchange real property with the United States Forest Service under the procedures of G.S. 160A-274.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 638 CHAPTER 355

AN ACT TO RAISE THE FORCE ACCOUNT CONSTRUCTION LIMIT FOR MACON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-135 is amended by deleting "seventy-five thousand dollars ($75,000)" and inserting in lieu thereof "one hundred thousand dollars ($100,000)".

Sec. 2. This act applies to Macon County and to the Macon County School Administrative Unit only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 670 CHAPTER 356

AN ACT REQUIRING THE OPERATOR OF ANY VESSEL OPERATED ON THE WATERS OF THE STATE TO STOP FOR A BLUE LIGHT OR SIREN EXHIBITED BY ANY LAW ENFORCEMENT OFFICER DURING THE PERFORMANCE OF DUTIES.

The General Assembly of North Carolina enacts:

Section 1. Operators of any vessels operated on the waters of the State are hereby required to stop for a blue light or siren exhibited by any law enforcement officer during the performance of his/her duties.

Sec. 2. Every person convicted of violating this act shall be guilty of a misdemeanor and shall be punishable as if it were an offense for which the punishment is provided by G.S. 20-176(b).

Sec. 3. This act applies only to Catawba, Gaston, Iredell, Lincoln, and Mecklenburg Counties.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 754 CHAPTER 357

AN ACT TO ANNEX TERRITORY TO THE TOWN OF PILOT MOUNTAIN.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Pilot Mountain are extended to include within the town the territory within the following boundaries:

BEGINNING at a chiseled cross in the center of the bridge over the Southern Railway on Hwy. 268 present corner of the city limits; thence with center of Hwy. 268 (Key Street) S 60°-13'-48" W 217.02' to a railroad spike; S 60°-12'-46" W 469.36'; S 61°-34'-03" W 134.12'; S 62°-53'-27" W 132.77'; S 65°-51'-45" W 149.64'; S 69°-40'-33" W 592.72' to a 1" iron in the center of Hwy. 268; thence leaving Hwy. 268 S 62°-57'-53" E 939.51' to an iron; thence S 39°-10'-36" W 716.73' to an iron; S 39°-35'-38" W 369.89' to an iron; N 76°-55'-03" W 47.42'; N 77°-28'-04" W 27.38'; N 78°-35'-20" W 123.39'; N 77°-58'-29" W 49.86'; N 77°-45'-57" W 249.92'; N 76°-40'-08" W 62.09'; N 77°-44'-53" W 318.71'; N 51°-42'-53" W 233.00'; N 52°-32'-53" W 48.41'; N 37°-17'-31" W 115.50' to an iron 3' north of the edge of the pavement to Mountain Loop Road, S 33° W approximately 35' to the southeast corner of the Howard Denny tract; thence with Denny S 33° W approximately 253' to the corner of the James W. Gordon tract; thence with Gordon S 43°-42'-27" W 88.28'; S 53°-32'-26" W 257.47' to the right-of-way of Hwy. 52; thence southwesterly crossing Hwy. 52 approximately 375' to the southeast corner of the Kennis Smith tract and the right-of-way of Hwy. 52; thence northwesterly with the right-of-way line of Hwy. 52 to a point in the center of Hwy. 268; thence continuing with the western right-of-way of Hwy. 52 approximately 550' to a point in the right-of-way of Hwy. 52 at the northeast corner of the R. J. Harris tract; thence northeasterly crossing Hwy. 52 approximately 425' to a point in the east right-of-way of Hwy. 52; thence southeasterly with the right-of-way of Hwy. 52 approximately 500' to a point at the intersection of the north right-of-way of Hwy. 268 with the east right-of-way of Hwy. 52; thence near north and running with the property line of R. J. Harris approximately 650' to Harris' corner; thence continuing with Harris' property in a northeasterly direction approximately 900' to a point in the center of the creek; thence with the Town of Pilot Mountain and the center of said creek near north approximately 286' to a point at the intersection of said creek and the Town of Pilot Mountain Water Treatment Plant; thence with the Town of Pilot Mountain and Francis M. Stone, N 83°-54'-03" W 777.94' to a marked Hickory, still with Stone, N 4°-42' E 1089'; thence S 86° E 257.94' to a point in the center of the Southern Railway; thence eight courses with the center of the Southern

Railway tract, S 43°-06'-35" E 222.17'; S 42°-03'-48" E 100'; S 38°-38'-35" E 100'; S 33°-07'-24" E 100'; S 26°-51'-37" E 100'; S 22°-02'-40" E 100'; S 20°-08' E 203.86'; S 20°-35'-21" E 101.03' to a point in the center of the Southern Railway tract and the north line of the Town of Pilot Mountain; thence with the north line of the Town of Pilot Mountain N 69°-13'-04" E 1125.50' to the southwestern side of a power line right-of-way; thence N 43°-02'-08" W approximately 650' to a point in the southwestern right-of-way of said power line; thence approximately N 60° E approximately 135' crossing said power line to the southwest corner of Trotter Place Subdivision, corner of Lots # 16 and 17; thence with Trotter Place Subdivision N 64°-10' E 543.62' to the northernmost corner of Lot # 13; thence N 29°-04'-58" W 370.92' to the westernmost corner of Lot # 5 in the existing city limit line of the Town of Pilot Mountain; thence S 85°-09'-56" E 635' to a point in the center of Lynchburg Street; thence continuing with the existing city limit line S 09°-40'-01" W 2006.48' to the place of the beginning.

Sec. 2. This act shall become effective June 30, 1983.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 798 CHAPTER 358

AN ACT TO GRANT THE WINSTON-SALEM/FORSYTH COUNTY BOARD OF EDUCATION AUTHORITY TO SELL SURPLUS SCHOOL PROPERTY TO NONPROFIT ORGANIZATIONS BY PRIVATE NEGOTIATIONS AND SALE.

Whereas, the Winston-Salem/Forsyth County Board of Education plans and intends to implement a major reorganization of the public schools within its administrative unit during the next four years due to a significant decline in student enrollment and other reasons; and

Whereas, the proposed reorganization will result in the creation of from six to eight surplus schools; and

Whereas, several nonprofit community agencies have expressed the desire to purchase some of the schools which will not be needed after the implementation of the proposed reorganization; and

Whereas, it would be in the public's interest to convey surplus school property to nonprofit community agencies for various recreational, educational, charitable and social service purposes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Winston-Salem/Forsyth County Board of Education is hereby authorized for a period of four years from the date this bill is enacted, to sell any building, building site, or other real property owned or held by such Board which is unnecessary or undesirable for public school purposes to any nonprofit community agency by private negotiation and sale; provided, however, that when it is proposed to sell real property, the Board shall inform the Board of Forsyth County Commissioners and shall publish a notice of the proposed sale in a newspaper having a general circulation in the county at least 10 days prior to the Board's final approval of the sale which describes the property to be sold and the terms and conditions of the sale.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 801 CHAPTER 359

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SOUTHERN PINES.

The General Assembly of North Carolina enacts:

Section 1. Section 8.3 of the Charter of the Town of Southern Pines, being Chapter 352, Session Laws of 1981, is amended by deleting the words "floor space" both times they appear and substituting in lieu thereof the words "land area".

Sec. 2. A new section is added to the Charter of the Town of Southern Pines, being Chapter 352, Session Laws of 1981, to read:

"Sec. 8.5. That Sec. 160A-237 under Article 10 entitled 'Special Assessments', providing for authority to hold water and sewer assessments in abeyance, be made applicable to any special assessments made by the Town of Southern Pines pursuant to its Town Charter, and that the period in which such assessments may be held in abeyance shall be for twenty (20) years as provided in the Charter during which assessments may be amortized under said Charter. And that all other provisions of G.S. 160A-237 be made applicable to special assessments for parking within the Town of Southern Pines."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 804 CHAPTER 360

AN ACT TO AMEND THE SCHOOL BUDGET AND FISCAL CONTROL ACT CONCERNING APPROVAL OF EXPENDITURES SOME OR ALL OF WHICH ARE TO BE PAID IN ENSUING FISCAL YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-441(a) is amended by adding the words "Except as set forth below," before the words "No obligation" in the first sentence of the subsection; and by substituting the word "section" for the word "subsection" wherever it may appear in that subsection.

Sec. 2. G.S. 115C-441 is amended by adding a new subsection to read:

"(c2) Continuing Contracts for Capital Outlay. An administrative unit may enter into a contract for capital outlay expenditures, some portion or all of which is to be performed and/or paid in ensuing fiscal years, without the budget resolution including an appropriation for the entire obligation, provided:

(i) the budget resolution includes an appropriation authorizing the current fiscal year's portion of the obligation;

(ii) an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year;

(iii) contracts for capital outlay expenditures are approved by a joint resolution adopted by the board of county commissioners and the appropriate board of education, which resolution shall provide in detail what monies will be necessary under the contract, when the monies will

be due under the contract, what monies are available at the time of adoption of the resolution, what are the sources and time of availability of additional monies necessary to fulfill the contract, and which resolution when adopted shall bind the board of county commissioners to appropriate sufficient funds in ensuing fiscal years to meet the amounts to be paid under the contract in those years;

(iv) contracts pursuant to this subsection shall not exceed four years in duration;

(v) in addition to signature by the board of education, the contract shall be signed by the county for the express purpose of obligating the full faith and credit of the county to provide funding under the contract."

Sec. 3. G.S. 115C-521(c) is amended by adding the following sentence immediately after the second sentence of that subsection:

"However, this subsection shall not be construed so as to prevent boards of education from investing any money in buildings that are being constructed pursuant to a continuing contract of construction as provided for in G.S. 115C-441(c2)."

Sec. 4. This act applies only to Buncombe County, the Buncombe County School Administrative Unit, and the Asheville City School Administrative Unit.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 816 CHAPTER 361

AN ACT PROHIBITING INTERFERENCE WITH AN EMERGENCY IN FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Chapter 14 of the General Statutes to read:

"§ 14-286.2. *Interference with emergency communication.*—It is a misdemeanor punishable by a fine not exceeding five hundred dollars ($500.00), imprisonment not exceeding six months, or both, for a person to knowingly interrupt, disrupt, impede, or otherwise interfere with the transmission or reception of a communication on a citizens band radio channel if the purpose of the communication is to report an emergency, to report an endangerment to the safety or security of persons or property, or to request assistance for or attempt to render assistance to any person.

For purposes of this section:

(1) 'Emergency' means a condition or circumstance in which an individual is or is reasonably believed by the person transmitting or receiving the communication to be in danger of bodily injury or in which property is or is reasonably believed by the person transmitting or receiving the communication to be in danger of damage or destruction;

(2) 'Endangerment to the safety or security of persons or property' means a condition or circumstance which, while not of an immediate emergency nature, is likely to cause injury to persons or property if not corrected."

Sec. 2. This act applies only to Forsyth County.

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 822 CHAPTER 362

AN ACT TO INCREASE THE MAXIMUM FINE FOR LITTERING IN THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-399(d) is amended by deleting the words and figures "two hundred dollars ($200.00)" and substituting in lieu thereof the words and figures "five hundred dollars ($500.00)".

Sec. 2. This act applies to the City of Charlotte only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 828 CHAPTER 363

AN ACT TO LIMIT THE APPLICABILITY OF A PROPOSED SCHOOL SUPPLEMENT TAX IN TRANSYLVANIA COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Any tax supplement approved by the voters under Article 36 of Chapter 115C of the General Statutes may only be levied for the five fiscal years immediately following the fiscal year in which the tax was approved by the voters.

Sec. 2. This act applies only to Transylvania County.

Sec. 3. This act is effective upon ratification and applies also to the proposed tax levy to be submitted to the voters of Transylvania County by action of the Board of Commissioners of Transylvania County on April 14, 1983.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 840 CHAPTER 364

AN ACT TO AUTHORIZE A. D. WARD TO CONVEY CERTAIN LANDS TO THE CITY OF NEW BERN, AND TO AUTHORIZE MEMBERS OF THE BOARD OF ALDERMEN TO MAKE LOAN APPLICATIONS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding Section 47 of the Charter of the City of New Bern, being Chapter 1281, Session Laws of 1957, A. D. Ward is authorized to convey to the City of New Bern property owned by him at the corner of F and Biddle Streets in the City of New Bern for a price to be determined by the average of two independent appraisals to be procured by the City of New Bern.

Sec. 2. Notwithstanding Section 47 of the Charter of the City of New Bern, being Chapter 1281, Session Laws of 1957, G.S. 14-234 or any other like or similar law prohibiting such contract or agreement or making such action a crime, any member of the New Bern Board of Aldermen who owns or leases property in the Downtown Redevelopment Area may make application to the Loan Committee and if selected, participate in the Downtown Redevelopment Loan Fund being established by agreement between the City of New Bern,

Branch Banking and Trust Company, First Citizens Bank & Trust Company, NCNB National Bank of North Carolina and Wachovia Bank and Trust Company, N.A., by obtaining on the same terms and conditions as any other participant a loan with which to rehabilitate such property as any other owner or lessee of property in the Downtown Redevelopment Area of New Bern will be able to do.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 854 CHAPTER 365

AN ACT TO WAIVE COMPLIANCE WITH CERTAIN STATUTES IN THE CONSTRUCTION OF THE NEW HANOVER COUNTY REFUSE FIRED STEAM GENERATING FACILITY.

The General Assembly of North Carolina enacts:

Section 1. The New Hanover County Board of County Commissioners is authorized to enter into contracts to construct a refuse fired steam generating facility with electrical co-generation capabilities for New Hanover County, notwithstanding the provisions of Article 8 of Chapter 143, Chapter 153A, Chapter 133, Chapter 89C, and Chapter 87 of the General Statutes. All acts heretofore taken by the New Hanover County Board of Commissioners in entering into and in connection with contracts for the construction of a refuse fired steam generating facility for New Hanover County, including construction and installation of an incinerator and related appurtenances and installation of equipment and machinery required therefor, are hereby ratified and validated. Provided, however, that the engineer whose name and seal appear on plans and specifications shall inspect the construction and installation and shall issue a signed and sealed certificate of compliance with said plans and specifications as provided by Chapter 133 of the General Statutes.

Sec. 2. This act shall apply only to New Hanover County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 862 CHAPTER 366

AN ACT TO AMEND THE CHARTER AND RELATED LAWS OF THE CITY OF WILMINGTON TO CLARIFY PROCEDURES RELATING TO SPECIAL USE DISTRICTS AND SPECIAL USE PERMITS.

The General Assembly of North Carolina enacts:

Section 1. Section 23.6 of the Charter of the City of Wilmington, being Chapter 495, Session Laws of 1977, as amended by Chapter 258 of the 1981 Session Laws is amended by rewriting the sixth and seventh paragraphs thereof to read as follows:

"If the petitioner elects to petition for special use district zoning, the petitioner must specify the actual use or uses intended for the property specified in the petition, and the intended use or uses must be permitted in the corresponding general use district either by right or by special use. If the petition is for special use district zoning, the City Council is to approve or

disapprove the petition on the basis of the uses requested. If the petition is approved, the City Council shall issue a special use permit authorizing the requested use or uses with such reasonable conditions as the City Council determines to be desirable in promoting public health, safety and general welfare. Every decision of the City Council shall be subject to review by the superior court by proceedings in the nature of certiorari.

The conditions contained in a special use permit issued by the City Council may include: Location of the proposed use or uses on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas; the timing of development; and such other matters as the City Council may find appropriate or the petitioner may propose."

Sec. 2. Section 1 of Chapter 367, Session Laws of 1981 is repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 863 CHAPTER 367

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON TO REVISE CERTAIN ORDINANCE PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. Section 3.11(b) of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws is amended by adding a new sentence after the first sentence to read:

"Notwithstanding the provisions of G.S. 159-17(1), the affirmative vote of a majority of the council members shall be necessary to adopt or amend the budget ordinance or any project ordinance."

Sec. 2. Article V of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws is rewritten to read:

"ARTICLE V. INITIATIVE AND REFERENDUM.

"Sec. 5.1. Initiative ordinances generally.

(a) Any proposed ordinance may be submitted to the council by petition signed by electors of the city equal in number to the percentages hereinafter required. If the petition accompanying the proposed ordinance is signed by electors of the city equal in number to twenty-five percent (25%) of the votes cast at the last preceding regular municipal election and contains a request that such ordinance be submitted to a vote of the people, if not passed by the council, the council shall either:

(1) Pass the ordinance without alteration within 20 days after the city clerk and the New Hanover County Board of Elections have certified the sufficiency of the accompanying petition; or

(2) Within 20 days after the city clerk and the New Hanover County Board of Elections have certified the sufficiency of the petition, the council shall call a special election to be held within six months, unless a general election is fixed within six months thereafter. At such special or general election the ordinance shall be submitted without alteration to the vote of the electors of the city.

(b) The ballots used when voting upon such ordinance shall contain these words: 'For the ordinance' (stating the nature of the proposed ordinance), and

'Against the ordinance' (stating the nature of the proposed ordinance). If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city; and any ordinance proposed by petition or which shall be adopted by a vote of the people cannot be repealed or amended except by a vote of the people.

(c) Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section; but there shall not be more than one special election in any period of six months for such purpose.

(d) The council may submit a proposition for the repeal of any ordinance, or for amendments thereto, to be voted upon at any succeeding general or special election. Should such proposition so submitted receive a majority of the votes cast at such election, such ordinance shall thereby be repealed or amended accordingly. Whenever any ordinance or proposition is required by this act to be submitted to the voters of the city at any election, the city clerk shall cause such ordinance or proposition to be published once in each of the newspapers published daily in the City of Wilmington. Such publication shall be not more than 20 nor less than five days before the date fixed for the special or general election.

"Sec. 5.2. Form and contents of referendum petition. The petition provided for in the preceding section shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number at which the petitioner resides, his age and length of residence in the city. It shall also be accompanied by the affidavit of one or more legal voters of the city, stating that the signers thereof were, at the time of the signing, legal voters of the city, and stating the number of signers at the time the affidavit was made."

Sec. 3. Section 20.2 of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws is amended by rewriting the second sentence to read:

"No such ordinance shall be finally adopted until it has been passed at two regular meetings of the city council."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 866 CHAPTER 368

AN ACT TO ALLOW THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS TO CONDUCT AN ADVISORY REFERENDUM ON THE QUESTION OF A SUNDAY-CLOSING LAW.

The General Assembly of North Carolina enacts:

Section 1. A county board of commissioners may by resolution direct the county board of elections to conduct a nonbinding advisory referendum on the question of a Sunday-closing law. The date of such referendum shall be set by the county board of commissioners. The referendum shall be conducted in accordance with Chapter 163 of the General Statutes.

Sec. 2. If such a referendum is called, the question on the ballot shall be:

"CHECK ONLY ONE BOX

☐ Are you in favor of having a Sunday-closing law (blue law)?

☐ Are you against having a Sunday-closing law (blue law)?"

Sec. 3. This act applies to Cumberland County only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 870 CHAPTER 369

AN ACT CONCERNING THE DEADLINE FOR MODIFYING THE BOUNDARIES OF DURHAM CITY ELECTION WARDS.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of the Charter of the City of Durham, being Chapter 671, Session Laws of 1975, is amended by striking the words "at least seven days prior to the opening of the registration books for the municipal election", from the last paragraph, and by inserting in lieu thereof the words "at least 60 days prior to the municipal primary".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 878 CHAPTER 370

AN ACT TO PROVIDE THAT THE CITY OF DURHAM MAY CONTRACT WITH AND APPROPRIATE MONEY TO ANY PERSON, ASSOCIATION, OR CORPORATION FOR THE ACCOMPLISHMENT OF PUBLIC PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Section 8 of the Charter of the City of Durham, being Chapter 671, Session Laws of 1975, is amended by adding the following new paragraph at the end:

"Pursuant to Article V, Section 2(7) of the Constitution of North Carolina, the City Council may contract with and appropriate money to any person, association, or corporation for the accomplishment of any public purpose."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 880 CHAPTER 371

AN ACT ALTERING THE DISTRIBUTION OF PROFITS OF THE CITY OF HERTFORD ABC BOARD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 728 of the 1961 Session Laws is amended by rewriting Section 5 to read:

"Sec. 5. (a) Out of the net revenue remaining after the payment of all costs and operating expenses, and after retaining a sufficient and proper working capital, the Board of Commissioners of the Town of Hertford may distribute that revenue as follows: fifty percent (50%) to the General Fund of the Town of Hertford and fifty percent (50%) to the Perquimans County Board of Education to be used for educational purposes only.

(b) After due notice in writing to the Perquimans County Board of Education, the Board of Commissioners of the Town of Hertford, may, by majority vote at its annual budget meeting, decrease or eliminate the fifty percent (50%) portion of the Perquimans County Board of Education, and distribute that portion so decreased or eliminated to the General Fund of the Town of Hertford."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 885 CHAPTER 372

AN ACT TO INCORPORATE WITHIN THE TOWN OF MINT HILL CERTAIN UNANNEXED TERRITORY LYING WITHIN ITS OUTER BOUNDARIES.

Whereas, the Town of Mint Hill has effected a number of annexations on the request of property owners since its incorporation in 1971; and

Whereas, because of these annexations several relatively small areas have not been incorporated into the Town and now lie totally within the Town's outer boundaries; and

Whereas, the orderly development and efficient provision of services throughout the territory within the Town's outer boundaries requires that all the territory within those boundaries be a part of the Town; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. All territory lying within the outer boundaries of the Town of Mint Hill as shown on the Town's boundary map on July 1982, and maintained in the office of the Town's clerk as required by G.S. 160A-22 that has not been previously annexed to the Town is annexed and made a part of the Town of Mint Hill saving and excepting that certain tract of land more particularly described as follows:

BEGINNING at an old iron, the name being formerly known and identified as "John Kucks corner" (by deed dated November 28, 1904, recorded in Deed Book 195, Page 279 of the Mecklenburg County Public Registry, conveying the subject property to Mary M. Morrison); and being more particularly identified as being the point marking the southeasterly corner of the property owned by E. J. Ingram and the southwesterly corner of the property now or formerly owned by W. K. Gladder, (as shown on boundary survey for John R. Morrison, prepared by Spratt-Seaver, Inc., Registered Surveyors, dated March 10, 1971, of a tract of land containing 134.625 acres); and running thence from said points or place of beginning, N. 55-44-12 W. 217.51 feet to an old stone, thence S. 26-25-12 W. 591.62 feet to an old iron; thence S. 25-57-10 W. 1615.21 feet to a point in the center line of Lawyers Road; thence five (5) courses and distances with the said center line of Lawyers Road in a southeasterly direction as follows: (1) S. 49-28-22 E. 88.74 feet to a point; (2) with an arc to the right of radius of 1735.55 feet, an arc distance of 327.08 feet to a point; (3) S. 38-10-28 W. 1104.50 feet to a point; (4) with an arc to the left of radius of 2196.99 feet, an arc distance of 1534.43 feet to a point; (5) S. 78-41-28 E. 53.76 feet to a point; thence S. 49-12-18 E. 261.20 feet to an old iron (lying south of said Lawyers Road); thence N. 39-31-10 E. 145.98 feet to a point in the northerly margin of said road; thence continuing N. 39-31-10 E. 983.85 feet to a point (the same being marked by a 48" oak); thence N. 42-12-18 W. 1756.23 feet

to an old iron (over which a new iron has been set in concrete); thence N. 26-18-58 W. 1994.30 feet to the old iron marking the point or place of BEGINNING; containing 134.625 acres, as shown on survey by Spratt-Seaver for John B. Morrison, dated March 10, 1971, hereinabove described, the same being Tract II as described in that certain deed recorded in Book 4135 at page 57 of the Mecklenburg County, N. C. Public Registry.

Sec. 2. All territory annexed to the Town of Mint Hill by this act is subject to property taxes levied by the Town for 1983-84 and thereafter, but not before.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 887 CHAPTER 373

AN ACT TO AMEND THE CHARTER OF THE CITY OF DURHAM, BY ADDING PROVISIONS RELATING TO FAIR HOUSING.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Durham, being Chapter 671, Session Laws of 1975, as amended, is further amended by adding a new Chapter to read:

"Chapter VIII.

"Fair Housing.

"Sec. 121. Equal Housing. The City Council shall have the power to adopt ordinances, prohibiting discrimination on the basis of race, color, sex, religion, or national origin in real estate transactions. Such ordinances may regulate or prohibit any act, practice, activity or procedure related, directly or indirectly to the sale or rental of public or private housing, which affects or may tend to affect the availability or desirability of housing on an equal basis to all persons; may provide that violations constitute a misdemeanor, and shall be punishable under G.S. 14-4; may subject the offender to civil penalties; and may provide that the City may enforce the ordinances by application to the General Court of Justice, Superior Court Division, for appropriate legal and equitable remedies, including but not limited to, mandatory and prohibitory injunctions and orders of abatement, attorney's fees and not more than one thousand dollars ($1,000) punitive damages, and the court shall have jurisdiction to grant such remedies.

"Sec. 122. Exemptions. Any ordinance enacted pursuant to this Chapter may provide for exemption from its coverage:

(1) the rental of a housing accommodation in a building containing accommodations for not more than four families living independently of each other if the lessor or a member of his family resides in one of those accommodations;

(2) the rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides there;

(3) with respect to discrimination based on sex, the rental or leasing of housing accommodations in single-sex dormitory property;

(4) with respect to discrimination based on religion to housing accommodations owned and operated for other than a commercial purpose by a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a

religious organization, association, or society, the sale, rental or occupancy of such housing accommodation being limited or preference being given to persons of the same religion, unless membership in such religion is restricted because of race, color, national origin, or sex;

(5) any person, otherwise subject to its provisions, who adopts and carries out a plan to eliminate present effects of past discriminatory practices or to assure equal opportunity in real estate transactions, if the plan is part of a conciliation agreement entered into by that person under the provisions of the ordinance.

"Sec. 123. Enforcement. (a) The City Council may create or designate a committee or committees to assume the duty and responsibility of enforcing ordinances adopted pursuant to this Chapter. Such committee(s) may be granted the necessary authority by the City Council for the proper enforcement of any fair housing ordinance, including, but not limited to, the power to:

(1) promulgate rules for the receipt, initiation, investigation and conciliation of complaints of violations of the ordinance;

(2) require answers to interrogatories, the production of documents and things, and the entry upon land and premises in the possession of a party to a complaint alleging a violation of the ordinance; compel the attendance of witnesses at hearings; administer oaths; and examine witnesses under oath or affirmation;

(3) apply to the Superior Court Division of the General Court of Justice, upon the failure of any person to respond to or comply with a lawful interrogatory, request for production of documents and things, request to enter upon land and premises, or subpoena, for an order requiring such person to respond or comply;

(4) upon finding reasonable cause to believe that a violation of the ordinance has occurred, to petition the General Court of Justice, Superior Court Division, for appropriate civil relief on behalf of the aggrieved person or persons;

(5) sit as arbitrators in binding arbitration pursuant to the Uniform Arbitration Act, embodied in Article 45A of Chapter 1 of the North Carolina General Statutes, provided that the time within which a party may apply to the General Court of Justice to vacate, modify or correct an award may be limited to 60 days.

(b) Judicial Review of Committee Orders. Judicial review of Committee orders other than arbitration awards shall be in accordance with Article 4 of Chapter 150A of the North Carolina General Statutes provided, however, that the provisions of G.S. 150A-45 notwithstanding, petitions for judicial review shall be filed in the Superior Court of Durham County. The term "Agency," whenever used in Article 4 of the Chapter 150A of the North Carolina General Statutes, shall mean the Committee(s) as authorized or created by the City Council of the City of Durham under the authority of this act.

(c) Enforcement of Committee Orders;

(1) Decisions of a committee sitting as arbitrators shall be enforced as provided in Article 45A of Chapter 1 of the General Statutes. Otherwise, if within 60 days after entry of an order of the Committee, a respondent has neither complied with nor sought review of such order, any aggrieved person or the Committee may apply to the Superior Court of Durham County for an order of the court enforcing the order of the Committee.

(2) Within 30 days after the court's receipt of the petition for enforcement of the agency's order or within such additional time as the court may allow, the Committee shall transmit to the court the original or a certified copy of the entire record of the proceedings leading to the order. With the permission of the court, the record may be shortened and testimony submitted by tape recording by stipulation of all parties. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for such additional cost as may be occasioned by the refusal. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(3) The hearing on the petition for enforcement of the Committee's order shall be conducted by the court without a jury. The court shall hear oral arguments and receive written briefs, but shall take no evidence not offered at the Committee's hearing; except that in cases of alleged irregularities in proceedings before the Committee not shown in the record, testimony thereon may be taken by the court; and except that where no record was made of the proceedings or the record is inadequate, the judge in his discretion, may hear all or part of the matter *de novo*; provided that if the order imposed includes punitive damages, then as to that portion of the order, the respondent shall have a right to a trial *de novo* on that issue.

(4) The court shall issue the order requiring compliance with the Committee's order unless it finds that enforcement of the Committee's order would prejudice substantial rights of the party against whom the order is sought to be enforced because the Committee's findings, inferences, conclusions, or decisions are:

a. in violation of constitutional provisions; or

b. in excess of the statutory authority of jurisdiction of the committee; or

c. made upon unlawful procedure; or

d. affected by other error of law; or

e. unsupported by substantial evidence in view of the entire record as submitted; or

f. arbitrary or capricious.

(5) If the court declines to enforce the Committee's order for one of the reasons specified in paragraph 4 of this section, it shall either:

a. dismiss the petition; or

b. modify the Committee's order and enforce it as modified; or

c. remand the case to the Committee for further proceedings.

(6) Any party to the hearing on the petition for enforcement of the Committee's order may appeal the court's decision to the appellate division under the rules of procedure applicable to other civil cases.

"Sec. 124. (a) Civil Action for Unlawful Housing Practice. An ordinance adopted pursuant to this act may permit any complainant dissatisfied with the Committee's final disposition of a matter to bring a civil action in the Superior Court Division of the General Court of Justice of Durham County against the person allegedly engaging in the unlawful practice. Such civil action for a housing practice may not be brought more than 60 days after the complainant's receipt of notification of the Committee's final disposition of the matter.

(b) Injunctions; Equitable Relief. If the court finds that the respondent has engaged in or is engaging in an unlawful housing practice charged in the compliant, the court may enjoin the respondent from engaging in such unlawful housing practice, award special damages, actual damages and award not more than one thousand dollars ($1,000) for additional punitive damages.

"Sec. 125. An ordinance adopted pursuant to this act may provide for an award of attorney's fees to the prevailing party in any action or proceedings under such ordinance other than the Committee in the discretion of the Committee or court.

"Sec. 126. Complaints and Other Records. The City Council may provide that neither complaints filed with any committee pursuant to the ordinance nor the discovery, or attempts at conciliation, in whatever form prepared and preserved, shall be subject to inspection, examination, of copying under the provisions of what is now Chapter 132 of the General Statutes.

"Sec. 127. Committee Meetings. The provisions relating to meetings of governmental bodies as set forth in Article 33C of Chapter 143 of the General Statutes shall apply to the activities of any committee authorized to enforce the ordinance. Provided, however, that the City Council may provide that said statutory provisions shall not apply to the activity of a committee to the extent that the committee is:

(1) receiving a complaint; or

(2) conducting an investigation, discovery, or conciliation pertaining to a complaint filed pursuant to the ordinance."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 490 CHAPTER 374

AN ACT TO PERMIT PAYMENT OF DIVIDENDS BASED ON THE LOSS EXPERIENCE OF INDIVIDUAL POLICYHOLDERS IN WORKERS' COMPENSATION INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-124.30 is amended on line 3 after the end of the first sentence by adding a new sentence to read: "Individual policyholder loss experience may be considered as a factor in determining dividends for workers' compensation insurance and employers' liability insurance written in connection therewith."

Sec. 2. G.S. 58-97 is amended by rewriting the first sentence to read:

"(a) Any participating or dividend-paying company, stock or mutual or foreign or domestic, that writes other than life insurance or workers' compensation insurance and employers' liability insurance in connection therewith, may declare and pay a dividend to policyholders from its surplus, which shall include only its surplus in excess of any required minimum surplus."

Sec. 3. G.S. 58-97 is further amended by adding a new subsection (b) to read:

"(b) Any participating or dividend-paying company, stock or mutual or foreign or domestic, that writes workers' compensation insurance and employers' liability insurance in connection therewith may declare and pay a

dividend to policyholders from its surplus, which shall include only its surplus in excess of any required minimum surplus. No such dividend shall be paid unless fair and equitable and for the best interest of the company and its policyholders. In declaring any dividend to its policyholders, any such company may make reasonable classifications of policies expiring during a fixed period. The payment of dividends to policyholders shall not be contingent upon the maintenance or renewal of the policy. All dividends shall be paid to the policyholder unless a written assignment thereof be executed. Neither the payment of dividends nor the rate thereof may be guaranteed by any company, or its agent, prior to the declaration of the dividend by the board of directors of such company. The holders of policies of insurance issued by a company in compliance with the orders of any public official, bureau, or committee, in conformity with any statutory requirement or voluntary arrangement, for the issuance of insurance to risks not otherwise acceptable to the company, may be established as a separate class of risks."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 682 CHAPTER 375

AN ACT TO ALLOW THE USE OF THE STATE COURIER SERVICE OR A COMMON OR CONTRACT CARRIER IN ADDITION TO THE UNITED STATES MAIL FOR PURPOSES OF MAINTAINING A CHAIN OF CUSTODY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 8 of the North Carolina General Statutes, as the same is found in Volume 1B of the General Statutes, 1981 Replacement, is amended by adding a new Article 14 to read as follows:

"ARTICLE 14.

"Chain of Custody.

"§ 8-100. *Courier service and contract carriers.*—For purposes of maintaining a chain of custody for any item of evidence, depositing the item with the State courier service operated by the Department of Administration or a common or contract carrier shall be considered the same as depositing such item in First Class United States Mail."

Sec. 2. G.S. 90-101(c)(2), as the same is found in the 1981 Supplement to Volume 2C of the General Statutes, 1981 Replacement, is amended by rewriting the first line to read:

"(2) The State courier service operated by the Department of Administration, a common or contract carrier, or a public warehouseman, or an".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 719 CHAPTER 376

AN ACT TO CLARIFY THE DEPARTMENT OF CORRECTION'S AUTHORITY TO PROVIDE TREATMENT AND TRAINING PROGRAMS FOR MENTALLY RETARDED PRISONERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-22(a) is amended by deleting the last sentence and inserting in lieu thereof the following two sentences:

"Programs may be established for the treatment and training of mentally retarded prisoners and other special groups. These programs may be operated in segregated sections of facilities housing other prisoners or in separate facilities."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 851 CHAPTER 377

AN ACT CLARIFYING PROCEDURES OF LOCAL INSPECTION DEPARTMENTS AND AUTHORIZING COMPENSATION OF LOCAL PLANNING AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-139.2 is amended by deleting the last sentence of subsection (a).

G.S. 143-139.2 is further amended by adding a new subsection to be designated (c) and to read:

"(c) This section shall apply only in any county or city that elects to enforce the insulation and energy utilization standards of the State Building Code pursuant to G.S. 143-151.27."

Sec. 2. G.S. 153A-357(1) is amended by inserting the words "movement to another site" between the word "repair," and the word "removal."

Sec. 3. G.S. 160A-417(1) is amended by inserting the words "movement to another site" between the word "repair," and the word "removal".

Sec. 4. G.S. 153A-361 is amended by inserting the words "involving alleged violation of the State Building Code or any approved local modification thereof" between the words "stop order" and the words "to the North Carolina Commissioner of Insurance" in line 10. Said section is further amended by inserting the following provisions immediately prior to the last sentence, which begins "Violation of a stop order" in line 17: "Appeals from a stop order based on violations of any other local ordinance relating to buildings shall be taken to the local official designated by that ordinance and shall be taken, heard, and decided in the same manner as prescribed herein for appeals to the Commissioner."

Sec. 5. G.S. 160A-421 is amended by inserting the words "involving alleged violation of the State Building Code or any approved local modification thereof" between the words "stop order" and the words "to the North Carolina Commissioner of Insurance" in lines 9 and 10. Said section is further amended by inserting the following provisions immediately prior to the last sentence, which begins "Violation of a stop order" in line 16: "Appeals from a stop order based on violation of any other local ordinance relating to buildings shall be taken to the local official designated by that ordinance and shall be taken,

heard, and decided in the same manner as prescribed herein for appeals to the Commissioner."

Sec. 6. G.S. 153A-373 is amended by deleting the language "permanent," in line 2 and by inserting the following provisions immediately after the first sentence of the section: "These records shall be kept in the manner and for the periods prescribed by the N. C. Department of Cultural Resources."

Sec. 7. G.S. 160A-433 is amended by deleting the language "permanent," in line 1 and by inserting the following provisions immediately after the first sentence of the section: "These records shall be kept in the manner and for the periods prescribed by the N. C. Department of Cultural Resources."

Sec. 8. G.S. 153A-322 is amended by inserting the language ", and compensate members of," between the word "support" and the word "any" in line 3 of the third paragraph of said section.

Sec. 9. G.S. 160A-363 is amended by inserting the language ", and compensate members of," between the word "support" and the word "any" in line 3 of the third paragraph of said section.

Sec. 10. This act is effective October 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 956 CHAPTER 378

AN ACT TO AMEND G.S. 115D-20 RELATING TO POWERS AND DUTIES OF TRUSTEES OF COMMUNITY COLLEGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115D-20(3) is amended by deleting the words "Article 2, Chapter 40 of the General Statutes" and inserting in lieu thereof the words "General Statutes Chapter 40A".

Sec. 2. G.S. 40A-3(c) is amended by adding a new subdivision at the end to read:

"(11) The board of trustees of a community college or technical college or technical institute established under the provisions of Article 2 of Chapter 115D for the purposes of that Article."

Sec. 3. This act is effective upon ratification and applies to actions commencing on or after the effective date.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. B. 919 CHAPTER 379

AN ACT TO CHANGE THE METHOD OF DETERMINING THE AMOUNT DUE UNDER THE SOFT DRINK DISPENSER TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-65.1(b)(1) is rewritten to read:

"(b)(1) In addition to the license tax imposed under subsection (a), a distributor or operator of soft drink dispensers, except open cup drink dispensers, shall annually pay to the Secretary of Revenue a soft drink dispenser tax in an amount based on the number of dispensers operated, maintained or placed on location by the distributor or operator on July 1 of the license year. The amount of tax due is as follows:

Number of Dispensers	Amount of Tax
5-50	$ 7.00 per dispenser
51-100	535.00
101-150	892.50
151-200	1,250.00
200 and up	1,250.00 plus $357.50 for each additional 50 dispensers or fraction thereof

A distributor or operator who was not in business on July 1 of the license year shall pay a tax based on the number of dispensers he reasonably expects to operate, maintain or place on location during the ensuing license year. If the number of dispensers operated, maintained or placed on location during that year exceeds the distributor's or operator's estimate, the distributor or operator shall, within 20 days of the close of the license year, report the excess to the Secretary and pay any additional tax due according to the above table."

Sec. 2. The second and third paragraphs of G.S. 105-65.1(a) are each amended by deleting the word "subsection" and inserting in lieu thereof the word "section" each time it appears in these paragraphs.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

S. B. 75 CHAPTER 380

AN ACT REGARDING INVOLUNTARY COMMITMENT OF PERSONS FOUND INCAPABLE OF PROCEEDING OR NOT GUILTY BY REASON OF INSANITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1003(a) is rewritten to read as follows:

"When a defendant is found to be incapable of proceeding, the presiding judge, upon such additional hearing, if any, as he determines to be necessary, shall determine whether there are reasonable grounds to believe the defendant meets the criteria for involuntary commitment under Article 5A of Chapter 122 of the General Statutes. If the presiding judge finds reasonable grounds to believe that the defendant meets the criteria, he shall make findings of fact and issue a custody order in the same manner, upon the same grounds and with the same effect as an order issued by a clerk or magistrate pursuant to G.S. 122-58.3 or G.S. 122-58.18. Proceedings thereafter are in accordance with Article 5A of Chapter 122 of the General Statutes. If the defendant was charged with a violent crime, including a crime involving assault with a deadly weapon, the judge's custody order shall require a law enforcement officer to take the defendant directly to a community or regional mental health facility pursuant to G.S. 122-58.4(b); and the order must indicate that the defendant was charged with a violent crime and that he was found incapable of proceeding."

Sec. 2. G.S. 15A-1004(c) is amended by adding the following at the end to read: "If the defendant was charged with a violent crime, including a crime involving assault with a deadly weapon, and that charge has not been dismissed, the order must require that if the defendant is to be released from the custody of the hospital or other institution, he is to be released only to the custody of a

specified law enforcement agency. If the original or supplemental orders do not specify to whom the respondent shall be released, the hospital or other institution may release the defendant to whomever it thinks appropriate."

Sec. 3. G.S. 15A-1321 is amended to read as follows:

"When a defendant charged with a crime is found not guilty by reason of insanity by jury verdict or upon motion pursuant to G.S. 15A-959(c), the presiding judge upon such additional hearing, if any, as he determines to be necessary, shall determine whether there are reasonable grounds to believe the defendant meets the criteria for involuntary commitment under Article 5A of Chapter 122 of the General Statutes. If the presiding judge finds reasonable grounds to believe that the defendant meets the criteria, he shall make findings of fact and issue a custody order in the same manner, upon the same grounds, and with the same effect, as an order issued by a clerk or magistrate pursuant to G.S. 122-58.3 or G.S. 122-58.18. Proceedings thereafter are in accordance with Article 5A of Chapter 122 of the General Statutes. However, if the defendant was charged with a violent crime, including a crime involving assault with a deadly weapon, the judge's custody order shall require a law enforcement officer to take the defendant directly to a community or regional mental health facility pursuant to G.S. 122-58.4(b); and the order must indicate that the defendant was charged with a violent crime and that he was found not guilty by reason of insanity."

Sec. 4. G.S. 122-58.4(b) is rewritten to read:

"(b) The examination set forth in subsection (a) is not required if:

(1) the affiant who obtained the custody order is a qualified physician; or

(2) the custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and he was found not guilty by reason of insanity or incapable of proceeding; or

(3) the respondent is in custody under the special emergency procedure described in G.S. 122-58.18.

In any of these cases, the law enforcement officer shall take the respondent directly to a mental health facility described in subsection (c)."

Sec. 5. G.S. 122-58.6 is amended by adding a new subsection between subsections (a) and (b) to read:

"(a1) If the custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and that he was found not guilty by reason of insanity or incapable of proceeding, the physician shall examine him as set forth in subsection (a). However, the physician may not release him from the facility until ordered to do so following the district court hearing."

Sec. 6. G.S. 122-58.7 is amended by adding a new subsection between subsection (b) and (c) to read:

"(b1) If the respondent's custody order indicates that he was charged with a violent crime, including a crime involving an assault with a deadly weapon, and that he was found not guilty by reason of insanity or incapable of proceeding, the clerk shall give notice of the time and place of the hearing as provided in G.S. 122-58.20(c). The district attorney in the county in which the respondent was found not guilty by reason of insanity or incapable of proceeding may represent the State's interest at the hearing."

Sec. 7. G.S. 122-58.7A(c) is rewritten to read:

"(c) Upon motion of any interested party, the venue of an initial hearing described in G.S. 122-58.7(b1) or a rehearing required by G.S. 122-58.13(b) shall be moved to the county in which the respondent was found not guilty by reason of insanity or incapable of proceeding when the convenience of witnesses and the ends of justice would be promoted by the change."

Sec. 8. G.S. 122-58.8(b) is amended by adding a new sentence between the second and third sentences to read: "If G.S. 15A-1004(c) applies, the order of commitment shall also specify to whom the respondent is to be released."

Sec. 9. G.S. 122-58.20 is amended by adding a new subsection to read:

"(c) In cases described in G.S. 122-58.7(b1), the clerk shall notify the chief district judge and the district attorney in the county in which the defendant was found not guilty by reason of insanity or incapable of proceeding. The notice shall be given in the same manner as the notice required by subsection (a). The judge or the district attorney may file a written waiver of his right to notice under this subsection with the clerk of court."

Sec. 10. G.S. 122-58.4(a) as set out in the 1981 Replacement Volume to Volume 3B of the General Statutes is amended on line 1 by adding between the word "magistrate" and the punctuation "," the following words: "or a custody order issued by the court pursuant to G.S. 15A-1003 or G.S. 15A-1321".

Sec. 11. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 24th day of May, 1983.

H. B. 789 CHAPTER 381

AN ACT TO AUTHORIZE A UNIT OF LOCAL GOVERNMENT TO PROVIDE A DISCOUNT FOR SPECIAL ASSESSMENT PAYMENTS MADE WITHIN THIRTY DAYS OF THE DUE DATE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-193.1. *Discounts authorized.*—The board of commissioners is authorized to establish a schedule of discounts to be applied to assessments paid before the expiration of 30 days from the date that notice is published of confirmation of the assessment roll pursuant to G.S. 153A-196. Such a schedule of discounts may be established even though it was not included among the terms of payment as specified in the preliminary assessment resolution or final assessment resolution. The amount of any discount may not exceed thirty percent (30%)."

Sec. 2. G.S. 153A-194 is amended in the second sentence, following the words "the terms of payment" by inserting the following: "including the schedule of discounts, if such a schedule is to be established".

Sec. 3. G.S. 153A-196 is amended by adding a new sentence at the end thereof to read: "The notice shall also state the schedule of discounts, if one has been established, to be applied to assessments paid before the expiration date for payment of assessments without interest."

Sec. 4. Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-226.1. *Discounts authorized.*—The council is authorized to establish a schedule of discounts to be applied to assessments paid before the expiration of 30 days from the date that notice is published of confirmation of the assessment roll pursuant to G.S. 160A-229. Such a schedule of discounts may be established even though it was not included among the terms of payment as specified in the preliminary assessment resolution or assessment resolution. The amount of any discount may not exceed thirty percent (30%)."

Sec. 5. G.S. 160A-227 is amended in the second sentence, following the words "the terms of payment" by inserting the following: "including the schedule of discounts, if such a schedule is to be established".

Sec. 6. G.S. 160A-229 is amended by adding a new sentence at the end thereof to read: "The notice shall also state the schedule of discounts, if one has been established, to be applied to assessments paid before the expiration date for payment of assessments without interest."

Sec. 7. This act is effective upon ratification and applies to any project for which the preliminary assessment roll is prepared after the effective date.

In the General Assembly read three times and ratified, this the 24th day of May, 1983.

S. B. 405 CHAPTER 382

AN ACT TO PERMIT PERSONS TO ENGAGE IN BUSINESS AS A PAWNBROKER IN UNINCORPORATED AREAS OF PITT AND ALLEGHANY COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of Section 4 of Chapter 1155, Session Laws of 1957, as added by Chapter 169, Session Laws of 1983, is amended by adding immediately after the word "Jackson" the words ", Alleghany, Pitt,".

Sec. 2. Section 3 of Chapter 169, Session Laws of 1983, is amended by adding immediately after the word "Jackson" the words ", Alleghany, Pitt,".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1983.

H. B. 118 CHAPTER 383

AN ACT TO AUTHORIZE THE USE OF THE SINGLE PORTAL OF ENTRY AND EXIT PRINCIPLE IN RENDERING MENTAL HEALTH SERVICES.

Whereas, coordination between facilities rendering mental health services is vital in affording appropriate screening, placement and aftercare in order to achieve the optimum in the treatment of patients and residents; and

Whereas, effective coordination will result in the most economical methods of delivery of health services to individuals admitted to and discharged from publicly supported local and State-operated facilities; and

Whereas, the application of the Single Portal of Entry and Exit Principle will greatly enhance coordination of these efforts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-35.35 is amended by adding a new paragraph at the end:

"In order to assure the most appropriate and effective care of clients within the publicly supported mental health, mental retardation and substance abuse services system, area mental health, mental retardation and substance abuse authorities are encouraged to adopt a single portal of entry and exit policy for their catchment area."

Sec. 2. G.S. 122-35.36 is amended by adding the following subsections:

"(13) Single Portal of Entry and Exit Policy. An admissions and discharge policy for treatment facilities which may be adopted by an area mental health, mental retardation and substance abuse authority and must be approved by the Department of Human Resources before it is in force. The policy and its provisions shall be designed to promote quality client care in and between treatment facilities. Furthermore, the policy shall be designed to integrate otherwise independent facilities into a unified and coordinated system wherein the area program shall be responsible for assuring that the individual client can receive services from the facility which is best able to meet his needs. However, the policy shall not be inconsistent with any other provisions of the General Statutes, nor shall the policy include the complete exclusion of clients from admission to any specific treatment facility.

If an area authority seeks to be designated as a single portal area, the authority shall include a proposal for an admissions and discharge policy for specified treatment facilities in the annual plan as required by G.S. 122-35.43. For this purpose treatment facilities may include: regional mental hospitals, centers for the mentally retarded, mental health facilities for the care and treatment of alcoholism, and facilities for the treatment and education of emotionally disturbed children operated by the Department of Human Resources; area mental health facilities; and, any public or private facilities, hospitals and centers for the services provided under contract pursuant to G.S. 122-35.49.

Once an area is designated by the Department of Human Resources as a single portal area, any changes to the plan must be approved by the Department. However, an approved plan and designation as a single portal area shall remain in force pending approval of any changes.

(14) Single Portal Area. The county or counties which comprise the catchment area of an area mental health, mental retardation and substance abuse authority which has been designated by the Department of Human Resources as having adopted an approved single portal of entry and exit policy. Residents of the county or counties in a designated single portal area shall be admitted to or discharged from treatment facilities through the area program as described in the area plan."

Sec. 3. G.S. 122-35.43 is amended to add the following subsections:

"(c) The annual plan shall include the plan developed for the maximum utilization of community and area mental health facilities which is required by G.S. 122-58.16.

(d) The annual plan may incorporate the area authority's proposal to be designated as a single portal area as defined in G.S. 122-35.36(13) and (14). The proposal shall include but not be limited to:

(1) a specific listing of facilities to be covered by the single portal of entry and exit policy;

(2) procedures for review of persons to be admitted to or discharged from these treatment facilities;

(3) procedures for shared responsibility when persons are admitted directly to a treatment facility;

(4) evidence of incorporation of these plans within the contracts between the area authority and the regional facilities as required in subsection (a) above and with other public and private agencies as required in G.S. 122-35.49;

(5) evidence of cooperative arrangements with local law enforcement, local courts and the local medical society; and

(6) procedures for review of citizen complaints."

Sec. 4. G.S. 122-56.3 is amended by designating the present paragraph as subsection (a) and by adding a new subsection:

"(b) When a person from a single portal area seeks admission to a treatment facility, as described in G.S. 122-35.36(13) and (14), such admission shall follow the procedures as prescribed in the area plan. Provided however, when a person from a single portal area presents himself for admission to a treatment facility directly, and is in need of an emergency admission, he may be accepted for admission. The treatment facility shall notify the area program within 24 hours of the admission and further treatment planning for the person shall be the joint responsibility of the area program and the treatment facility as prescribed in the area plan."

Sec. 5. G.S. 122-58.3 is amended by adding a new subsection:

"(e) When a petition is filed for a person who is a resident of a single portal area, as described in G.S. 122-35.36(13) and (14), the procedures for examination by a qualified physician as defined in G.S. 122-58.4 shall be carried out in accordance with the area plan. Provided however, when a person from a single portal area is presented for commitment at a treatment facility directly, he may be accepted for admission in accordance with G.S. 122-58.6. The treatment facility shall notify the area program within 24 hours of the admission and further treatment planning for the person shall be the joint responsibility of the area program and the treatment facility as prescribed in the area plan."

Sec. 6. G.S. 122-58.13 is amended by adding a new subsection:

"(c) If a committed respondent under either subsection (a) or (b) above is from a single portal area, as described in G.S. 122-35.36(13) and (14), the chief of medical services shall plan jointly with the area program as prescribed in the area plan prior to the discharge or release of the respondent."

Sec. 7. G.S. 122-70 is amended by designating the present paragraph as subsection (a) and by adding a new subsection:

"(b) An admission of a person from a single portal area shall follow the procedures as prescribed in the area plan, as described in G.S. 122-35.36(13) and (14). Provided however, when a person from a single portal area presents himself, or is presented, for admission to a center directly and is in need of an emergency admission, he may be accepted for admission. The center shall notify the area program within 24 hours of the admission and further treatment planning for the person shall be the joint responsibility of the area program and the center as prescribed in the area plan."

Sec. 8. G.S. 122-71.1 is amended to add the following sentence at the end of that section:

"When the person is a resident of a single portal area, discharge of the person shall be planned jointly with the area program in accordance with the area plan."

Sec. 9. G.S. 122-7.1 is amended by adding the following paragraph at the end of subsection (a):

"When a person from a single portal area is to be admitted to or discharged from a facility, as described in G.S. 122-35.36(13) and (14), such admission or discharge shall follow the procedures as prescribed in the area plan. Provided however, when a person from a single portal area presents himself for admission directly, and is in need of an emergency admission, he may be accepted for admission. The facility shall notify the area program within 24 hours of the admission and further treatment planning for the person shall be the joint responsibility of the area program and the facility as prescribed in the area plan."

Sec. 10. G.S. 122-8.1 is amended by adding the following subsections thereto:

"(d) Further, notwithstanding the provisions of subsections (a) and (c), any of the treatment facilities specified in an approved single portal of entry and exit policy as described in G.S. 122-35.36 (13) and (14) may share information about a client or patient from a single portal area with any of that area's participating treatment facility upon a written determination by the director of the facility or his authorized representative, that the sharing of information is necessary for the appropriate and effective care and treatment of the client or patient. Under the circumstances described in this subsection, the consent of the client or patient shall not be required in order for this information to be so furnished and the information shall be furnished despite objection of the client or patient.

(e) Nothing contained in this section shall apply to the records of a client or patient in a situation where federal statutes, rules or regulations applicable to that client or patient prohibit the disclosure of information regarding the client or patient.

(f) No person having or acquiring access to the diagnostic or treatment record of a client or patient served under the authority of this Chapter may disclose it or any information from it to any other person except as authorized by this section and applicable rules and regulations."

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1983.

H. B. 519 CHAPTER 384

AN ACT TO REVISE THE QUALIFICATIONS FOR REAL ESTATE LICENSES.

The General Assembly of North Carolina enacts:

Section 1. The third and fourth sentences of G.S. 93A-4(a) are rewritten to read:

"Each applicant for a license as a real estate salesman shall, within five years preceding the date application is made, have satisfactorily completed, at a school approved by the Board, a real estate fundamentals course consisting of at least 30 hours of classroom instruction in subjects determined by the Board, or possess real estate education or experience in real estate transactions which the Board shall find equivalent to the course. Each applicant for a license as a real estate broker shall, within five years preceding the date the application is made, either have been actively engaged on a full-time basis as a licensed real estate salesman for at least two years, or have satisfactorily completed, at a school approved by the Board, advanced courses in Real Estate Law, Real Estate Finance, and Real Estate Brokerage Operations, each consisting of at least 30 hours of classroom instruction, these courses to be in addition to those required for a real estate salesman license, or possess real estate education or experience in real estate transactions which the Board shall find equivalent to the above requirements."

Sec. 2. This act shall become effective September 1, 1984.

In the General Assembly read three times and ratified, this the 25th day of May, 1983.

H. B. 883 CHAPTER 385

AN ACT TO REGULATE THE USE OF FIREARMS ON PUBLIC HIGHWAYS IN THE COUNTIES OF HOKE AND ROBESON.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt, take or kill with the use of a firearm any wild bird or animal, from, on, or across the right-of-way of any road or highway which is a part of the primary or secondary highway system of the State of North Carolina or to shoot or discharge any type of firearm from, onto, or across the right-of-way of any such road or highway.

Sec. 2. This act shall not apply to any person exempted from G.S. 14-269 while in the discharge of his or her official duties, or to the owner or lessee of any land abutting upon a paved or unpaved secondary road on that portion of such road which adjoins such land, or to any person who has in his possession valid, written permission from such owner or lessee to hunt on such abutting land during the hunting season.

Sec. 3. All peace officers of counties and municipalities, within the limits of their respective territorial jurisdiction, and of the State including enforcement officers of the Wildlife Resources Commission, are empowered to enforce the provisions of this act.

Sec. 4. A person violating any provision of this act shall be guilty of a misdemeanor which shall be punishable by a fine not to exceed fifty dollars ($50.00) or imprisonment not to exceed 30 days.

Sec. 5. This act shall apply only to the Counties of Hoke and Robeson.

Sec. 6. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 25th day of May, 1983.

S. B. 50 CHAPTER 386

AN ACT TO AMEND THE POWERS OF THE COMMISSIONER OF INSURANCE TO REGULATE HEALTH MAINTENANCE ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 57B-3(c)(9) is amended by rewriting the last line to read:

"capital as well as any other sources of funding. The three-year projection may be prepared by the applicant's staff actuary, a recognized actuarial consultant, or a recognized health care consultant;".

Sec. 2. G.S. 57B-4(a) is amended by adding the following sentence at the end of the paragraph:

"The Commissioner may require such deposit up to a maximum of fifty thousand dollars ($50,000) as he deems to be necessary for the protection of enrollees; provided, however, that the Commissioner shall allow such deposits to be in the form of cash, securities, or certificates of deposit, or the applicant shall be permitted to post a surety bond in the specified amount. Any interest accrued as a result of such deposit shall be paid over to the applicant upon accrual."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1983.

H. B. 199 CHAPTER 387

AN ACT TO PERMIT THE ODOMETER DISCLOSURE TO BE MADE ON THE CERTIFICATE OF TITLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-347(a) is amended by adding a proviso, at the end of the subsection, to read:

"Provided that the certificate of title or other ownership documents shall be used in lieu of the single written statement if the title or ownership document contains the information set forth in subsection (a)."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1983.

H. B. 201 CHAPTER 388

AN ACT TO REQUIRE A HIGHER PERCENTAGE PETITION OF LANDOWNERS FOR THE CREATION OF A RURAL FIRE PROTECTION DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 69-25.1 is hereby amended by replacing "fifteen percent (15%)" with "thirty-five percent (35%)".

Sec. 1.1. G.S. 69-25.1 is amended by adding the following at the end of the first paragraph:

"If the voters reject the special tax under the first paragraph of this section, then no new election may be held under the first paragraph of this section within two years on the question of levying and collecting a special tax under the first paragraph of this section in that district, or in any proposed district which includes a majority of the land within the district in which the tax was rejected."

Sec. 2. This act shall become effective with respect to all petitions submitted under G.S. 69-25.1 on and after 30 days after ratification of this act, but shall not affect any petitions submitted before that date.

In the General Assembly read three times and ratified, this the 26th day of May, 1983.

H. B. 236 CHAPTER 389

AN ACT ALLOWING DEFERRAL OF IMPRISONMENT OF PREGNANT DEFENDANTS CONVICTED OF NONVIOLENT CRIMES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1353(a) is amended by adding the following at the end to read:

"If a female defendant is convicted of a nonviolent crime and the court is provided medical evidence from a licensed physician that the defendant is pregnant or the court otherwise determines that the defendant is pregnant, the court may specify in the order that the date of service of the sentence is not to begin until at least six weeks after the birth of the child or other termination of the pregnancy unless the defendant requests to serve her term as the court would otherwise order. The court may impose reasonable conditions upon defendant during such waiting period to insure that defendant will return to begin service of the sentence.

If the court sentences a defendant pursuant to G.S. 15A-1351(a), the period during which that defendant is awaiting imprisonment shall be considered part of the probationary sentence and such defendant shall be subject to all incidents and conditions of probation."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 26th day of May, 1983.

H. B. 261 **CHAPTER 390**

AN ACT TO DESIGNATE DISTRICT BARS AS SUBDIVISIONS OF THE NORTH CAROLINA STATE BAR AND TO AMEND THE STATUTES RELATING TO THE DISCIPLINING OF ATTORNEYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 84-18.1 is amended by changing the catch line to read: "Membership and fees of district bars"; by designating the present section as subsection "(b)"; and by adding a new subsection to read:

"(a) The district bar shall be a subdivision of the North Carolina State Bar and may adopt rules, regulations and bylaws that are not inconsistent with this Article. A copy of any rules, regulations and bylaws that are adopted, along with any subsequent amendments, shall be transmitted to the Secretary-Treasurer of the North Carolina State Bar."

Sec. 2. G.S. 84-28(c)(2) is rewritten to read:

"(2) Suspension for a period not exceeding three years, any portion of which may be stayed for a period not exceeding three years upon reasonable conditions to which the offending attorney consents; or".

Sec. 3. G.S. 84-28(c) is amended by adding a new sentence at the end, to read:

"Any order disbarring or suspending an attorney may impose reasonable conditions precedent to reinstatement."

Sec. 4. Subsection "(c)" of G.S. 84-28.1 is redesignated as "(d)" and a new subsection "(c)" is added to read:

"(c) The disciplinary hearing commission of the North Carolina State Bar, or any committee thereof, acting through its chairman, shall have the power to hold persons, firms or corporations in contempt as provided in Chapter 5A."

Sec. 5. The first paragraph of G.S. 84-32 is designated subsection "(a)" and the second and third paragraphs of G.S. 84-32 are rewritten to read:

"(b) Whenever any attorney desires to voluntarily surrender his license, he must tender his license and a written resignation to the council. The council, in its discretion, may accept such a tender with or without conditions, or reject such a tender. In the event such a tender is accepted, the council shall either enter an Order of Discipline or refer the matter to the disciplinary hearing commission for hearing in accordance with the rules and regulations prescribed by the council. The hearing committee of the disciplinary hearing commission may enter a final Order of Discipline or, if directed by the council, make a recommendation back to the council. A copy of any Order of Discipline shall be filed with the Clerk of the Supreme Court and with the clerk of the superior court of the county of residence or prior residence of the licensee or the county in which the attorney maintains an office for the practice of law.

(c) Whenever any attorney has been deprived of his license by suspension or disbarment, the council or the disciplinary hearing commission or the Secretary-Treasurer may, in accordance with rules and regulations prescribed by the council, restore the license upon due notice being given and satisfactory evidence produced of proper reformation of the licentiate and of satisfaction of any conditions precedent to restoration."

Sec. 6. G.S. 84-29 is amended by inserting in the second sentence after the phrase "shall be liable to punishment for contempt either by the council or its committee" the following:

"or a hearing committee of the disciplinary hearing commission through its chairman pursuant to the procedures set out in Chapter 5A."

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1983.

H. B. 293 CHAPTER 391

AN ACT TO VALIDATE THE REGISTRATION OF CERTAIN INSTRUMENTS CONTAINING A NOTARIAL JURAT INSTEAD OF AN ACKNOWLEDGEMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 47 of the General Statutes is amended by adding a new section to read:

"§ 47-108.18. *Registration of certain instruments containing a notarial jurat validated.*—A notarial jurat constitutes an acknowledgement in due form for all plats or maps that have heretofore been accepted for filing and registration under G.S. 47-30 as amended. No plat or map heretofore accepted for filing and registration, that contains a notarial jurat instead of an acknowledgement may be held to be improperly registered solely for lack of a proper acknowledgement."

Sec. 2. This act is effective upon ratification and does not affect pending litigation.

In the General Assembly read three times and ratified, this the 26th day of May, 1983.

H. B. 295 CHAPTER 392

AN ACT TO PERMIT A REGISTERED VOTER WHO HAS MOVED FROM ONE PRECINCT TO ANOTHER WITHIN THE SAME COUNTY MORE THAN THIRTY DAYS BEFORE AN ELECTION TO RECORD A CHANGE OF ADDRESS ON ELECTION DAY AND VOTE IN THE OFFICE OF THE COUNTY BOARD OF ELECTIONS OR AT ANOTHER LOCATION DESIGNATED BY THE BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-33(10) is amended by changing the period to a semicolon and adding the following: "and to appoint and remove precinct transfer assistants as provided in G.S. 163-72.3."

Sec. 2. Article 7 of Chapter 163 of the General Statutes is amended by adding the following new section:

"§ 163-72.3. *Change of address on election day; authorization to vote.*—(a) A registered voter who has moved from one precinct to another within the same county more than 30 days before a primary or election, but who has not submitted a change of address report as provided in G.S. 163-72.2, nevertheless may vote under the following procedure:

(1) On the day of the primary or election the voter must go to the polling place for the precinct at which the voter is registered.

(2) Upon determining that the voter is registered in that precinct but moved more than 30 days before, the precinct registrar or a judge shall issue to the voter a certificate of removal on the following form:

'NOTICE OF ELECTION DAY TRANSFER

On this day (name of voter as it appears in registration records), recorded as residing at (address on voter's record), appeared before the undersigned precinct official. This person has not voted this date in this precinct and hereby requests that he or she be permitted to vote after executing the required transfer certificate.

_____

Registrar or Judge

_____

Name and number of precinct

_____

Signature of voter

TAKE THIS CERTIFICATE TO THE COUNTY BOARD OF ELECTIONS'.

(3) Upon issuance of the certificate to the voter, the precinct official shall mark the voter's registration record with a "T" in the appropriate voting square to indicate that the voter has transferred.

(4) The voter shall take the certificate of removal to the precinct transfer assistant at the county board of elections' office. Upon determining that the voter moved more than 30 days before the election, that the voter now resides in another precinct within the county, and that the voter is otherwise qualified to vote in the election, the precinct transfer assistant shall have the voter complete the proper precinct transfer forms. The precinct transfer assistant shall then provide the voter with the proper ballots for the precinct where the voter now resides. If the voter fails to take the certificate of removal to the precinct transfer assistant at the county board of elections' office by the time the polls close on election day, the voter may at a later date submit a change of address report under G.S. 163-72.2 to become effective as provided by law.

(5) After marking the ballots in a booth or separate room provided for that purpose, the voter shall place the ballots in an envelope provided by the precinct transfer assistant. That envelope shall have printed or stamped on it the following:

Transfer voter ballot # ____

Assigned precinct _____

The precinct transfer assistant shall write the proper information in the blanks before giving the envelope to the voter.

(6) The precinct transfer assistant shall enter in a book provided by the board of elections the name of each voter permitted to vote under this section, the number assigned to the voter's ballot and envelope, the precinct in which the voter was previously registered, and the precinct to which the voter has transferred.

(7) Envelopes containing ballots voted under this section shall be retained by the county board of elections to be counted by the board, or assistants appointed by it, after the polls close on election day. The results of such ballots shall be added to the precinct results for the precinct to which the voter transferred.

(8) A person voting under this section shall be entitled to the same assistance as provided in G.S. 163-152.

(9) The precinct officials and precinct transfer assistant may require a person to show identification if needed to establish that the person is entitled to vote under this section.

(b) The county board of elections shall either designate a board employee or appoint another person to serve as a precinct transfer assistant. County boards of elections in counties with 70,000 or more registered voters may appoint two precinct transfer assistants, and boards in counties with 100,000 or more registered voters may appoint three assistants. In addition, board members and employees may perform the duties of a precinct transfer assistant.

(c) The board may appoint precinct transfer assistants in addition to those authorized by subsection (b) and assign them to locations other than the board of elections' office, provided the board adopts a resolution approving such additional appointments and gives written notice to the State Board of Elections of the additional locations at least 60 days before the election. If additional locations are established, the county board may make the appropriate changes in the forms and procedures to be used under subsection (a).

(d) Each precinct transfer assistant shall be paid at least thirty-five dollars ($35.00) for the duties performed on election day, and may be paid additional compensation as recommended by the board of elections and authorized by the board of county commissioners."

Sec. 3. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 26th day of May, 1983.

H. B. 757 CHAPTER 393

AN ACT TO CLARIFY PROVISIONS IN THE READABLE INSURANCE POLICIES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-366(b)(7) is amended in the fifth line by inserting immediately before the word "residential" the following:

"nonfleet private passenger motor vehicles insured under a commercial motor vehicle insurance policy when combined with a commercial risk;".

Sec. 2. G.S. 58-371(a)(1) is amended in the second line by inserting between the word "insurance" and the comma the following:

"except as excluded by G.S. 58-366(b)(7)".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1983.

H. B. 796 **CHAPTER 394**

AN ACT TO PERMIT A LOCAL SCHOOL ADMINISTRATIVE UNIT WITH MORE THAN 70,000 STUDENTS TO EXTEND THE PROBATIONARY PERIOD FOR NONTENURED TEACHERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-325(c)(1) shall be rewritten to read as follows:

"(c)(1) Election of a Teacher to Career Status. When a teacher will have been employed by a North Carolina public school system for three consecutive years, the board, near the end of the third year, shall vote on his employment for the next school year. The board may appoint him to a fourth one-year probationary contract, appoint him a career teacher, or not reappoint him. If the board appoints him to a fourth probationary contract, it shall, near the end of the fourth year, appoint him to a fifth one-year probationary contract, appoint him a career teacher, or not reappoint him. If the board reappoints him to a fifth probationary contract, it shall, near the end of the fifth year, appoint him to a sixth one-year probationary contract, appoint him a career teacher, or not reappoint him. If the board reappoints him to a sixth probationary contract, it shall, near the end of the sixth year, appoint him a career teacher, or not reappoint him. The board shall give the teacher written notice of its decision at least 30 (calendar) days before the end of the employment contract.

If the board votes to appoint him a career teacher, he becomes a career teacher on the first day following the end of his current contract. If the board votes to grant career status and if it has notified the teacher of this decision, it may not later rescind that action but must proceed under the provisions of this section for the demotion or discharge of the teacher if it decides to terminate his employment. If a majority of the board votes against reemploying the teacher, he shall not teach beyond the term specified in his current contract. If the board appoints the teacher to a seventh consecutive contract, he automatically becomes a career teacher on the first day following the end of his current contract.

A year, for purposes of computing time as a probationary teacher, shall be not less than 120 workdays performed as a full-time, permanent teacher in a normal school year."

Sec. 2. Section 1 of this act shall apply only to local school administrative units with more than 70,000 students. Section 1 of this act shall apply only to teachers first employed as probationary teachers for teaching in such units after the 1983-84 school year. This act shall be a pilot program for said administrative units.

Sec. 3. Any local board of education of a school administrative unit subject to the provisions of this act shall report to the State Board as the State Board requires on actions taken to implement this act and the impact of these actions on the local school administrative unit.

Sec. 4. The State Board of Education shall study the reports of the local school administrative units regarding this act and shall make an independent analysis and study of the provisions, as it deems advisable, of this act. On or before March 1, 1985, the State Board shall report to the General Assembly on the provisions of this act. The report shall include the State Board's recommendations on whether said provisions should be modified, terminated, or such other recommendations as are deemed appropriate.

Sec. 5. Nothing herein shall be deemed to amend or repeal the existing provisions of G.S. 115C-325(c)(1) as it applies to local school administrative units with less than 70,000 students.

Sec. 6. This act is effective upon ratification. Unless action is taken by the General Assembly by July 1, 1985, to reenact or modify the provisions of this act, this act shall expire after July 1, 1985.

In the General Assembly read three times and ratified, this the 26th day of May, 1983.

H. B. 1008 CHAPTER 395

AN ACT TO PERMIT AGRICULTURAL COMMODITY ASSOCIATIONS TO RECOVER AUDIT COSTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-564.1 is amended by adding the following new paragraph after the first paragraph thereof.

"For the purposes of this Article the Commissioner may designate the duly certified agency of the producers as his agent to conduct inspections or audits of the books of the purchaser of such agricultural products. If it is discovered, as the result of such inspection or audit, that such purchaser has willfully failed to remit assessments when due, then such purchaser shall be liable to the duly certified producers agency for the reasonable costs of such inspection or audit. Such costs may be recovered by the agency by an action against the purchaser in a court of competent jurisdiction. The agency shall also be entitled to recover from such purchaser a penalty of five percent (5%) of the amount due for each month it remains unpaid, not to exceed twenty percent (20%) of the total amount due."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1983.

H. B. 1014 CHAPTER 396

AN ACT TO AMEND ARTICLE 18B OF GENERAL STATUTES CHAPTER 58 IN ORDER TO CONTINUE NORTH CAROLINA'S ELIGIBILITY FOR RIOT REINSURANCE UNDER THE FEDERAL FAIR PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-173.27 is amended in lines 1 and 6 by substituting the year, "1985" for the year, "1983".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1983.

S. B. 469

CHAPTER 397

AN ACT TO MODERNIZE THE FORGERY LAW TO MAKE CLEAR THAT IT APPLIES TO CHECKS OF SAVINGS AND LOANS, CREDIT UNIONS, AND FEDERAL, STATE, AND LOCAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-119 is rewritten to read as follows:

"§ 14-119. *Forgery of notes, checks, and other securities.*—(a) If a person makes, forges, or counterfeits:

(1) Any bill, note, warrant, check, order, or similar instrument in imitation of, or purporting to be, a bill, note, warrant, check, order, or similar instrument of or on any financial institution or governmental unit, or any cashier or officer of such an institution or unit; or

(2) Any security purporting to be issued by, or on behalf of, any corporation, financial institution, or governmental unit,

with the intent to injure or defraud any person, corporation, financial institution, or governmental unit, he shall be punished as a Class I felon.

(b) For purposes of this section:

(1) 'Financial institution' means any mutual fund, money market fund, credit union, savings and loan association, bank, or similar institution.

(2) 'Governmental unit' means the United States, any United States territory, any state of the United States, or any political subdivision of any state."

Sec. 2. G.S. 14-120 is amended by substituting "instrument" for "bill, note, order, check or security" on line three, and by substituting "G.S. 14-119" for "the preceding section".

Sec. 3. This act shall become effective for offenses committed on or after October 1, 1983.

In the General Assembly read three times and ratified, this the 26th day of May, 1983.

H. B. 298

CHAPTER 398

AN ACT TO VALIDATE CERTAIN CONVEYANCES WHERE SEALS WERE OMITTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-20.1 is amended by deleting the date "January 1, 1981" and inserting in lieu thereof the date "May 1, 1983".

Sec. 2. G.S. 47-51 is hereby amended by deleting the date "January 1, 1974" and inserting in lieu thereof the date "May 1, 1983".

Sec. 3. G.S. 47-53 is hereby amended by deleting the date "January 1, 1961" and inserting in lieu thereof the date "May 1, 1983".

Sec. 4. G.S. 47-53.1 is hereby amended by deleting the date "January 1, 1975" and inserting in lieu thereof the date "May 1, 1983".

Sec. 5. G.S. 47-71.1 is hereby amended by deleting the date "January 1, 1981" and inserting in lieu thereof the date "May 1, 1983".

Sec. 6. G.S. 47-108.5 is hereby amended by deleting the date "January 1, 1959" and inserting in lieu thereof the date "May 1, 1983".

Sec. 7. G.S. 47-108.11 is hereby amended by deleting the date "January 1, 1980" and inserting in lieu thereof the date "May 1, 1983".

Sec. 8. This act is effective upon ratification and shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 27th day of May, 1983.

H. B. 226 CHAPTER 399

AN ACT TO PROVIDE FOR STATE REVIEW OF LOCAL GOVERNMENT SPONSORED CAMA MINOR DEVELOPMENT PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-121(b) is amended by adding a sentence at the end thereof to read as follows:

"Minor development projects proposed to be undertaken by a local government within its own permit-letting jurisdiction shall be considered and determined by the Secretary of Natural Resources and Community Development."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1983.

H. B. 228 CHAPTER 400

AN ACT TO STAY DEVELOPMENT UNDER CAMA PERMITS WHILE REQUESTS FOR APPEALS ARE PENDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-121.1(d) is amended to read:

"(d) Upon receipt by the Commission of a request for an appeal pursuant to this section, the permit subject to appeal shall be considered to be suspended and no development shall be undertaken which would be unlawful in the absence of a permit under this Part."

Sec. 2. G.S. 113A-121.1(c) is amended by adding a sentence at the end thereof to read:

"A decision on whether to grant a request for appeal pursuant to this subsection shall be issued within 15 days of receipt of the request."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1983.

H. B. 270 CHAPTER 401

AN ACT TO MAKE THE MINIMUM HOUSING STANDARDS APPLY TO MOBILE HOMES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-442(2) is rewritten to read:

"(2) 'Dwelling' means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose."

Sec. 2. G.S. 160A-442 is amended by adding a new subdivision to read:

"(3.1) 'Manufactured home' or 'mobile home' means a structure as defined in G.S. 143-145(7)."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1983.

H. B. 307 CHAPTER 402

AN ACT TO AUTHORIZE THE USE OF LOCAL OR FEDERAL FUNDS TO PURCHASE REAL PROPERTY BY THE AREA MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE AUTHORITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-35.53(c) is amended by deleting the period at the end and by substituting the following:

": Provided, however, the authority to hold title to real property and the authority to acquire the same may be held by the area mental health, mental retardation and substance abuse authority, upon the consent of the board or boards of county commissioners of all counties which comprise the area authority. This consent shall be ratified by resolution of each affected board of county commissioners and may specify any necessary or proper conditions for the consent, including but not limited to provisions for distribution of the proceeds, in the event of disposition of the real property by the area authority."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1983.

H. B. 363 CHAPTER 403

AN ACT TO AUTHORIZE THE WILDLIFE RESOURCES COMMISSION TO CONDUCT MANAGED HUNTS ON GAME LANDS AND TO CHARGE FEES FOR PROCESSING APPLICATIONS AND USE OF RELATED FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-264 is hereby amended by adding a new subsection (d) at the end thereof to read as follows:

"(d) The Wildlife Resources Commission may schedule managed hunts for any species of big game to be held on game lands. Participants in such hunts shall be selected at random by computer from properly licensed applicants. A nonrefundable fee of five dollars ($5.00) will be required of each applicant to defray the cost of processing the applications."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1983.

H. B. 540 **CHAPTER 404**

AN ACT TO INCLUDE THREE SATELLITE AREAS WITHIN THE CORPORATE LIMITS OF THE CITY OF LENOIR.

The General Assembly of North Carolina enacts:

Section 1. In addition to the corporate limits of the City of Lenoir, as now constituted, the corporate limits of the said City shall include the following described areas:

Tract I

All that certain tract or parcel of land located to the north of Gunpowder Creek and beginning at a point in the center of said creek, Coffey and Palmer's corner, and running up the center of said creek as follows: North 58°52' West 177.27 feet, North 7°14' West 72.45 feet, North 36°36'30" West 96.79 feet, North 48°19' West 128.80 feet, North 81°46'20" West 193.37 feet, South 85°22' West 123.98 feet and North 61°18'23" West 46.71 feet; thence leaving said creek a new line North 6°24'10" East 629.29 feet (crossing an iron pin at 26 feet) to a new iron corner; thence South 83°34'10" East 707.44 feet to an iron corner in the Coffey and Palmer line; thence South 6°24'10" West 920.81 feet (crossing an iron pin at 896.81 feet) to the center of Gunpowder Creek, the point of beginning, containing 11.913 acres, more or less, according to a survey prepared by Mallonee Surveying, Inc., in July of 1972.

Being the property conveyed to Broyhill Building and Development Company, by Broyhill Realty, Inc. by deed recorded in Book 647 at Page 863, Caldwell County Registry. See also deed Book 625, at Page 720, Caldwell County Registry.

Tract 2

BEGINNING at a point located N.59 - 07 W., 136 ft. from a stone, an old corner between the Miller and Sullivan lands hereinafter referred to, and runs thence S. 0 - 10W., 893.5 ft. to a concrete monument, a point in contour elevation 1000; thence with said contour elevation 1000 as follows: S. 23 - 02 W., 149.8 ft., S. 30 - 41 W., 36.1 ft., S. 35 - 47 W., 70 ft., S. 60 - 33 W., 60 ft., S. 69 - 33 W., 100 ft., S. 77 - 13 W., 76.1 ft., S. 67 - 15 W., 53 ft., S. 76 - 37 W., 63 ft., S. 73 - 03 W. 72 ft., S. 62 - 55 W., 60 ft., S. 84 - 02 W., 50.1 ft., S. 66 - 27 W., 43 ft., S. 74 - 57 W., 56 ft., S. 87 - 01 W., 65.1 ft. N.1 - 03 E., 88.2 ft., N. 8 - 42 W., 40.1 ft., N. 23 - 50 W., 49.1 ft. and N. 34 - 16 W., 42 ft. to a concrete monument on said contour elevation 1000, thence N. 9 - 40 E., 416 ft. to a concrete monument; thence N. 87 - 50 E., 20 ft.; thence N. 2 - 10 W., 100.5 ft.; thence with an arc of a 14° curve to the right 273.8 ft.; thence N.36 - 10 E., 7.3 ft.; thence with the arc of a curve of 14° to the left 315 ft.; thence N. 4 - 40 E., 53.4 ft. to a point; thence S. 89 - 50 E., 50 ft. to a concrete monument, same course 499.5 ft. to the point of BEGINNING, containing 19.66 acres, more or less, being a portion of the land described in deed from Lillie Miller and husband to Western Carolina Power Company dated August 11, 1923, recorded in the Public Registry of Caldwell County in Book 105 at page 270, and being shown on print entitled "Lenoir Waterworks Plant Site and Access Road Situated on Rhodhiss Lake".

Tract 3

BEGINNING on an iron pipe, Martinat's and Baton Water Corporation's corner in the Southern edge of a 10-foot right-of-way owned by Baton Water

Corporation, and runs with said edge of said right-of-way North 86° 40' 11" East 112.62 feet to a stake; thence still with said right-of-way North 58° 55' 04" East 314.00 feet to a stake; thence South 7° 32' 49" East 286.30 feet to a stake; thence South 82 degrees 27' 11" West 400.00 feet to an iron pipe; thence North 7° 32' 49" West 169.17 feet to the BEGINNING, containing 1.90 ACRES, more or less.

Being a part of the property conveyed by Madeleine Martinat, Widow, to Silvio Martinat, Jr., and wife, Faye B. Martinat, and Dr. Edwin Martinat, and wife, Martha Y. Martinat, by deed dated August 13, 1974, and recorded in Caldwell County Registry in Book 669, at Page 232. Also being that property conveyed to the City of Lenoir by deed dated June 17, 1975 and recorded in Caldwell County Registry in Book 675, at Page 1244.

Sec. 1.1. To the extent that any territory annexed to the City of Lenoir by Section 1 of this act is within the corporate limits of the Town of Cajah Mountain, such areas are removed from the corporate limits of the Town of Cajah Mountain.

Sec. 2. The corporate limits of the non-contiguous areas annexed by Section 1 of this act shall be considered satellite corporate limits within the meaning of Part 4 of Article 4A of Chapter 160A of the General Statutes and they shall not be considered to be external boundaries for the purpose of G.S. 160A-48(b)(2) or G.S. 160A-48(d).

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1983.

S. B. 286 CHAPTER 405

AN ACT TO EXEMPT GASTON COUNTY FROM CERTAIN PROCEDURAL REQUIREMENTS ON DISPOSAL OF LAND AS AN INDUSTRIAL PARK.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 137 of the 1981 Session Laws is amended by adding immediately before the word "Haywood" the word "Gaston,".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1983.

S. B. 304 CHAPTER 406

AN ACT TO ALLOW CITIES AND COUNTIES TO PARTICIPATE IN THE STATE TELEPHONE NETWORK.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-340 is amended by adding a new subdivision to read:

"(25) To make available, on a cost basis, to city and county agencies the services of the State telephone network. These services are to be charged to the local governments based on the proportional cost of maintaining and operating the system and in accordance with rules and regulations adopted by the Governor and approved by the Council of State."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1983.

S. B. 185 CHAPTER 407

AN ACT TO AMEND G.S. 20-118 PERTAINING TO WEIGHT OF VEHICLES AND LOADS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(5) is hereby amended by adding a new subdivision to be designated subdivision d. to read as follows:

"d. Where a vehicle or a combination of vehicles licensed as a farm vehicle is transporting meat, row crops, or forest products or by-products from the farm or point of origin to the first market, rendering or processing plant, the same shall be exempted from the provisions of paragraphs a., b., and c., and shall be allowed to shift the load weight from one axle to another to comply with the axle limits set forth in this section without penalty if the gross weight of the vehicle, or combination of vehicles, does not exceed the licensed weight.

If the load cannot be shifted, or after shifting, the axle weight exceeds the statutory limits set forth in this section, a penalty shall be assessed as provided in paragraph (5) for each pound in excess of the maximum axle limits specified herein."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1983.

H. B. 329 CHAPTER 408

AN ACT TO AMEND G.S. 115C-41 PERTAINING TO ORGANIZATION OF LOCAL BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-41 is amended by rewriting subsection (a) as follows:

"(a) Unless otherwise provided by local law, all local boards of education shall have an organizational meeting no later than 60 days after the swearing in of members following election or appointment and as often thereafter as the board shall determine appropriate. The board may fix the date and time of its organizational meeting. At the organizational meeting the members of all boards shall elect one of their members as chairman for a period of one year, or until his successor is elected and qualified. The chairman of the local board of education shall preside at the meetings of the board, and in the event of his absence or sickness, the board may appoint one of its members temporary chairman. The superintendent of schools, whether a county or city superintendent, shall be ex officio secretary to his respective board. He shall keep the minutes of the meetings of the board but shall have no vote: Provided, that in the event of a vacancy in the superintendency, the board may elect one of its members to serve temporarily as secretary to the board."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1983.

H. B. 1036

CHAPTER 409

AN ACT TO PROHIBIT THE UNAUTHORIZED USE OF PUBLIC PURCHASE OR CONTRACT PROCEDURES FOR PRIVATE BENEFIT.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 143 of the General Statutes is amended to add a new section to read as follows:

"§ 143-58.1. *Unauthorized use of public purchase or contract procedures for private benefit.*—(a) It shall be unlawful for any person, by the use of the powers, policies or procedures described in this Article or established hereunder, to purchase, attempt to purchase, procure or attempt to procure any property or services for private use or benefit.

(b) This prohibition shall not apply if:

(1) The department, institution or agency through which the property or services are procured had theretofore established policies and procedures permitting such purchases or procurement by a class or classes of persons in order to provide for the mutual benefit of such persons and the department, institution or agency involved, or the public benefit or convenience; and

(2) Such policies and procedures, including any reimbursement policies, are complied with by the person permitted thereunder to use the purchasing or procurement procedures described in this Article or established thereunder.

(c) A violation of this section is a misdemeanor punishable by fine, imprisonment up to two years, or both, in the discretion of the court."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 31st day of May, 1983.

H. B. 235

CHAPTER 410

AN ACT REGARDING JURISDICTION TO OVERRIDE CERTAIN PRIVILEGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 8-53 is amended in the second sentence by changing the semicolon after the word "kin" to a period and deleting the language following.

Sec. 2. G.S. 8-53 is further amended by adding a new sentence at the end to read:

"Any resident or presiding judge in the district, either at the trial or prior thereto, or the Industrial Commission pursuant to law may, subject to G.S. 8-53.6, compel disclosure if in his opinion disclosure is necessary to a proper administration of justice. If the case is in district court the judge shall be a district court judge, and if the case is in superior court the judge shall be a superior court judge."

Sec. 3. G.S. 8-53.3 is amended by changing the colon to a period and deleting the language following.

Sec. 4. G.S. 8-53.4 is amended by changing the semicolon after the word "conferred" to a period and deleting the language following.

Sec. 5. G.S. 8-53.4 is further amended by adding two new sentences at the end thereof to read:

"Any resident or presiding judge in the district in which the action is pending may compel disclosure, either at the trial or prior thereto, if in his opinion disclosure is necessary to a proper administration of justice. If the case is in district court the judge shall be the district court judge, and if the case is in superior court the judge shall be a superior court judge."

Sec. 6. G.S. 8-53.5 is amended by changing the colon to a period and deleting the language following.

Sec. 7. G.S. 8-53.3 and 8-53.5 are further amended by adding two new sentences at the end of each section respectively to read:

"Any resident or presiding judge in the district in which the action is pending may, subject to G.S. 8-53.6, compel disclosure, either at the trial or prior thereto, if in his opinion disclosure is necessary to a proper administration of justice. If the case is in district court the judge shall be a district court judge, and if the case is in superior court the judge shall be a superior court judge."

Sec. 8. Article 7 of Chapter 8 of the General Statutes is amended by adding a new section to read:

"§ 8-53.6. *No disclosure in alimony and divorce actions.*—In an action pursuant to G.S. 50-5, 50-6, 50-7, 50-16.2 and 50-16.3 if either or both of the parties have sought and obtained marital counselling by a licensed physician, licensed psychologist, or certified marital family therapist, the person or persons rendering such counselling shall not be competent to testify in the action concerning information acquired while rendering such counselling."

Sec. 9. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 1st day of June, 1983.

H. B. 281 CHAPTER 411

AN ACT TO MAKE AMENDMENTS TO THE ELECTION LAWS RELATIVE TO ACCESS TO THE VOTING ENCLOSURE, MAILING OF NOTICES OF CANCELLATION, USE OF TAX SUPPORTED BUILDINGS FOR VOTING, AND COUNTING OF PRIMARY BALLOTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-72.1(e) is rewritten to read:

"(e) When a county or municipal board of elections in this State receives from another county board of elections in this State, or from appropriate elections officials of another state or political subdivision in another state, a signed authorization directing the removal of a person's name from the county's or municipality's permanent registration records, the board shall remove the person's name from its registration records, provided however, that the registrant shall be reinstated by the chairman upon showing just cause."

Sec. 2. G.S. 163-72.1(f) is amended by deleting "one year" and inserting in lieu thereof "five years".

Sec. 3. G.S. 163-129 is amended in the second sentence of the first paragraph by inserting immediately after the word "thereof" the words ", or any other building, or a part thereof, which is supported or maintained, in whole or in part by or through tax revenues provided, however, that this section shall not be construed to permit any board of elections to demand and

use any tax exempt church property for such purposes without the express consent of the individual church involved."

Sec. 4. G.S. 163-153(1) is amended by adding the words "supervisors of elections," between the words "county board of elections," and the words "and the precinct registrar".

Sec. 5. G.S. 163-169(e) is rewritten to read:

"(e) Counting Primary Ballots. In a primary election the ballots shall be emptied on a table in full view of the precinct election officials, ballot counters, if used, and witnesses present. Identically marked ballots may be arranged in orderly piles to be counted. The results of those counts shall be stated aloud and the totals recorded on the tally sheet. For all other ballots, the name of each candidate voted for shall be read aloud distinctly, and the vote received by each candidate shall be tallied on the tally sheet. This procedure shall be followed for all boxes being counted."

Sec. 6. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 1st day of June, 1983.

H. B. 808 CHAPTER 412

AN ACT TO EXCLUDE NEW EMPLOYEES OF CERTAIN LICENSING AND EXAMINING BOARDS, EMPLOYEE AND TEACHER ASSOCIATIONS, AND PRIVATE NOT-FOR-PROFIT CORPORATIONS FROM THE MEMBERSHIP OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-1(10) is amended by deleting the sentence which reads "'Employee' shall also mean any full-time employee of the North Carolina Symphony Society, Inc., and of the North Carolina Art Society, Inc."

Sec. 2. G.S. 135-1(11) is amended by deleting the sentence which reads "'Employer' shall also mean the North Carolina Symphony Society, Inc., and the North Carolina Art Society, Inc."

Sec. 3. G.S. 135-1.1 is amended in the first sentence thereof between the word "elect" and the comma, by inserting the words "on or before July 1, 1983"; and further, between the word "employees" and the word "to", by inserting the words "so employed prior to July 1, 1983".

Sec. 4. G.S. 135-27(a) is amended in the first sentence thereof, between the word "position" and the word "with", by inserting the words "prior to July 1, 1983".

Sec. 5. G.S. 135-27(d) is amended in the first sentence thereof, between the word "elect" and the comma, by inserting the words "on or before July 1, 1983"; and further, between the word "organization" and the word "to", by inserting the words "so employed prior to July 1, 1983".

Sec. 6. G.S. 135-27(d) is amended at the end thereof by inserting before the period the words "and the North Carolina Art Society, Inc."

Sec. 7. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 1st day of June, 1983.

H. B. 946 CHAPTER 413

AN ACT TO AMEND G.S. 14-288.8 CONCERNING WEAPONS OF MASS DESTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-288.8(c)(3) is rewritten to read as follows:

"(3) Any firearm capable of fully automatic fire, any shotgun with a barrel or barrels of less than 18 inches in length or an overall length of less than 26 inches, any rifle with a barrel or barrels of less than 16 inches in length or an overall length of less than 26 inches, any muffler or silencer for any firearm, whether or not such firearm is included within this definition. For the purposes of this section, rifle is defined as a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder."

Sec. 2. G.S. 14-288.8(d) is rewritten to read as follows:

"(d) Any person who violates any provision of this section is guilty of a Class I felony."

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 1st day of June, 1983.

S. B. 337 CHAPTER 414

AN ACT TO PROVIDE THE SAME PUNISHMENT FOR THE SALE OF A CONTROLLED SUBSTANCE TO A MINOR AS IS CURRENTLY PROVIDED FOR THE DELIVERY OF A CONTROLLED SUBSTANCE TO A MINOR.

The General Assembly of North Carolina enacts:

Section 1. General Statute 90-95(e)(5) is amended by inserting between the words "by" and "delivering" the words "selling or".

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 1st day of June, 1983.

S. B. 345 CHAPTER 415

AN ACT TO PLACE A ONE-YEAR FREEZE ON THE GRANTING OF CERTIFICATES OF NEED FOR ALCOHOL TREATMENT BEDS, DRUG TREATMENT BEDS, OR BOTH.

Whereas, the State has an interest in promoting health care facilities that provide effective treatment of medical and mental disorders while at the same time minimizing costs to individuals, businesses, and the State; and

Whereas, alcoholism and other substance abuse disorders represent a serious health problem for the citizens of North Carolina; and

Whereas, the State must refine criteria for deciding whether additional alcohol treatment beds, drug treatment beds, or both are needed; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any law to the contrary, beginning with the effective date of this act the North Carolina Department of Human Resources shall not issue any certificate of need under Article 18 of Chapter 131 of the

General Statutes for any alcohol treatment beds, drug treatment beds, or both unless the governing body of the applicable health systems agency has rendered or decided not to render, by April 30, 1983, a recommendation on the application for alcohol treatment beds, drug treatment beds, or both. This prohibition will expire June 30, 1984. For reviews commenced after June 30, 1984, new applications must be submitted and the State shall not accept any such applications prior to April 1, 1984.

Sec. 2. Prior to the end of this limitation the Department of Human Resources is directed to review and revise "policy, criteria and standards for health care facilities" for alcohol and drug abuse treatment as required by G.S. 131-177(4) with the specific objective of limiting expansion in this area to the most cost effective treatment alternatives.

Sec. 3. The North Carolina Mental Health Study Commission is directed to appoint an Ad Hoc Committee of recognized specialists in the field of Alcohol and Drug Rehabilitation Treatment. The Ad Hoc Committee shall be of the size and composition as determined by the Study Commission and members of the committee shall be responsible for their own expenses.

This Ad Hoc Committee shall study, but not be limited to, development of criteria for defining the appropriate place of treatment, i.e., ambulatory or inpatient care; and define the optimal method(s) of treatment including appropriate mix of professional and supportive personnel. These and other related issues shall be studied particularly as they pertain to the most cost effective treatment of the client within the public and private sectors.

This Ad Hoc Committee shall report its recommendations on proposed State policies and any needed statutory revisions to the Study Commission by February 1, 1984.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1983.

H. B. 61 CHAPTER 416

AN ACT TO MAKE CLARIFYING AND TECHNICAL AMENDMENTS TO VARIOUS INSURANCE STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-44.6 is repealed.

Sec. 2. Article 18C of General Statutes Chapter 58 is repealed.

Sec. 3. G.S. 58-248.33(d), as found in the 1981 Cumulative Supplement, is amended in line 20 by substituting the word, "Professional" for the word, "Mutual"; and in line 21 by striking therefrom the following: ", North Carolina Division".

Sec. 4. G.S. 58-248.33(b)(3), as found in the 1981 Cumulative Supplement, is amended by rewriting the last line to read: "Rate Bureau".

Sec. 5. G.S. 58-124.17(1) is amended in the first line by adding after the word, "Carolina" the words, "Fire Insurance".

Sec. 6. G.S. 58-248.27 is amended in line 2 by inserting the words, "Motor Vehicle" between the words, "Carolina" and "Reinsurance".

Sec. 7. G.S. 118-38 is amended in line 10 by substituting for the citation "G.S. 58-131.1" the following: "Articles 12B or 13C of General Statutes Chapter 58".

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1983.

H. B. 752 CHAPTER 417

AN ACT TO AMEND THE CONSUMER PROTECTION LAW TO MAKE IT EASIER FOR CONSUMERS TO ENFORCE THE RIGHTS GRANTED TO THEM UNDER THE LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75-56 is amended as follows:

(a) In the second sentence by deleting ", 75-16, and 75-16.1" and substituting the following: "and 75-16";

(b) and by rewriting the remainder of the second sentence beginning on line 5, following the word "trebled" to read as follows: "for any violation under this Article".

Sec. 2. G.S. 75-16.1(1) is amended by deleting the words "pay the claim" and substituting the following: "fully resolve the matter".

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 2nd day of June, 1983.

H. B. 858 CHAPTER 418

AN ACT TO DELETE NEW HANOVER COUNTY FROM THE PROVISIONS OF THE GENERAL STATUTES RELATING TO VACANCIES ON BOARDS OF COMMISSIONERS IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-27.1(h) is amended by deleting the words "New Hanover,".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1983.

H. B. 969 CHAPTER 419

AN ACT TO CLARIFY PROCEDURES FOR CONTESTING DEBTS SUBMITTED FOR COLLECTION UNDER THE SETOFF DEBT COLLECTION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105A-8(a) is amended by rewriting the first sentence to read:

"If a claimant agency receives written application of the debtor's intention to contest the claim upon which the intended setoff is based, it shall grant a hearing to determine whether the claim is valid which shall be conducted according to procedures prescribed by Article 3 of G.S. Chapter 150A. The provisions of said Article 3 shall not apply to The University of North Carolina or its constituent or affiliated boards, agencies, or institutions, which shall conduct hearings according to administrative procedures deemed lawful by the Attorney General."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1983.

H. B. 1061 CHAPTER 420

AN ACT TO ENSURE DUE PROCESS FOR PERSONS WHOSE CARS ARE TOWED PURSUANT TO A LAW ENFORCEMENT OFFICER'S ORDER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-161.2 is repealed.

Sec. 2. A new Article is added to Chapter 20 of the General Statutes to read:

"Article 8.

"Post-Towing Procedures.

"§ 20-220. *Definitions.*—As used in this Article, unless the context clearly requires otherwise:

(1) 'tower' means the person who towed the vehicle;

(2) 'tow' in any of its forms includes to remove a vehicle by any means including towing and to store the vehicle;

(3) 'towing fee' means the fee charged for towing and storing.

"§ 20-221. *Coverage of Article.*—(a) This Article applies to each towing of a vehicle that is carried out pursuant to G.S. 115C-46(d) or G.S. 143-340(19), or pursuant to the direction of a law enforcement officer except:

(1) this Article applies to towings pursuant to G.S. 115D-21, 116-44.4, 116-226, 153A-132, and 160A-303 only insofar as specifically provided;

(2) this Article does not apply to a seizure of a vehicle under G.S. 14-86.1, 18B-504, 90-112, 113-137, or to any other seizure of a vehicle for evidence in a criminal proceeding or pursuant to any other statute providing for the forfeiture of a vehicle;

(3) this Article does not apply to a seizure of a vehicle pursuant to a levy under execution.

(b) A person who authorizes the towing of a vehicle covered by this Article, G.S. 115D-21, 116-44.4, 116-226, 153A-132, or 160A-303 is a legal possessor of the vehicle within the meaning of G.S. 44A-1(1).

"§ 20-222. *Notice and probable cause hearing.*—(a) Whenever a vehicle with a valid registration plate or registration is towed as provided in G.S. 20-221, the authorizing person shall immediately notify the last known registered owner of the vehicle of the following:

(1) a description of the vehicle;

(2) the place where the vehicle is stored;

(3) the violation with which the owner is charged, if any;

(4) the procedure the owner must follow to have the vehicle returned to him; and

(5) the procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in this State, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by

telephone, notice shall be mailed to his last known address unless he or his agent waives this notice in writing.

(b) Whenever a vehicle with neither a valid registration plate nor registration is towed as provided in G.S. 20-221, the authorizing person shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information listed in subsection (a). Unless the owner has otherwise been given notice, it is presumed that the authorizing person has not made reasonable efforts, as required under this subsection, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least seven days before the towing actually occurred; except, no pre-towing notice need be given if the vehicle impeded the flow of traffic or otherwise jeopardized the public welfare so that immediate towing was necessary.

(c) The owner or any other person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. The request shall be filed with the magistrate in the county where the vehicle was towed. If there is more than one magistrate's office in that county, the request may be filed with the magistrate in the warrant-issuing office in the county seat or in any other office designated to receive requests by the chief district court judge. The magistrate shall set the hearing within 72 hours of his receiving the request. The owner, the person who requested the hearing if someone other than the owner, the tower, and the person who authorized the towing shall be notified of the time and place of the hearing.

(d) The owner, the tower, the person who authorized the towing, and any other interested parties may present evidence at the hearing. The person authorizing the towing and the tower may submit an affidavit in lieu of appearing personally, but the affidavit does not preclude that person from also testifying.

(e) The only issue at this hearing is whether or not probable cause existed for the towing. If the magistrate finds that probable cause did exist, the tower's lien continues. If the magistrate finds that probable cause did not exist, the tower's lien is extinguished.

(f) Any aggrieved party may appeal the magistrate's decision to district court.

"§ 20-223. *Option to pay or post bond.*—At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of his vehicle by:

(1) paying the towing fee, or

(2) posting a bond for double the amount of the towing fee.

"§ 20-224. *Hearing on lien.*—The tower may seek to enforce his lien or the owner may seek to contest the lien pursuant to Chapter 44A.

"§ 20-225. *Payment to tower guaranteed.*—Every agency whose law enforcement officers act pursuant to this Article, G.S. 115D-21, 116-44.4, 116-226, 153A-132, or 160A-303 shall by contract or rules provide compensation to the tower if a court finds no probable cause existed for the towing."

Sec. 3. G.S. 115C-46(d) is amended by deleting the phrase "subject to the lien creation, notice and hearing provisions of G.S. 20-161.2" and substituting the phrase "and the registered owner of that vehicle shall become liable for removal and storage charges".

Sec. 4. G.S. 115D-21(b) is amended by adding a new paragraph at the end to read:

"Regardless of whether an institution does its own removal and disposal of motor vehicles or contracts with another person to do so, the institution shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-220 apply.

(1) If the institution operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 8, Chapter 20, apply.

(2) If the institution operates in such a way that it is responsible for collecting towing fees, it shall:

a. provide by contract or ordinance for a schedule of reasonable towing fees,

b. provide a procedure for a prompt fair hearing to contest the towing,

c. provide for an appeal to district court from that hearing,

d. authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and

e. if the institution chooses to enforce its authority by sale of the vehicle, provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the institution may destroy it."

Sec. 5. G.S. 116-44.4(i) is rewritten to read:

"(i) An ordinance adopted under any portion of this Part may provide that any vehicle illegally parked may be removed to a storage area. Regardless of whether a constituent institution does its own removal and disposal of motor vehicles or contracts with another person to do so, the institution shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-220 apply.

(1) If the institution operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 8, Chapter 20, apply.

(2) If the institution operates in such a way that it is responsible for collecting towing fees, it shall:

a. provide by contract or ordinance for a schedule of reasonable towing fees,

b. provide a procedure for a prompt fair hearing to contest the towing,

c. provide for an appeal to district court from that hearing,

d. authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and

e. if the institution chooses to enforce its authority by sale of the vehicle, provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the institution may destroy it."

Sec. 6. A new Article is added to Chapter 116 of the General Statutes to read:

"Article 27.

"Private Institution Towing Procedures.

"§ 116-226. *Post-towing procedures.*—If a private college or university employs law enforcement officers so that Article 8, Chapter 20, would otherwise apply to the removal and disposal of motor vehicles, the governing body of that college or university may by rule or ordinance provide an alternative hearing procedure for the owner. For purposes of this section, the definitions in G.S. 20-220 apply.

(1) If the college or university operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 8, Chapter 20, apply.

(2) If the college or university operates in such a way that it is responsible for collecting towing fees, it shall:

a. provide by contract or ordinance for a schedule of reasonable towing fees,

b. provide a procedure for a prompt fair hearing to contest the towing,

c. provide for an appeal to district court from that hearing,

d. authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and

e. if the college or university chooses to enforce its authority by sale of the vehicle, provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the college or university may destroy it."

Sec. 7. G.S. 143-340(19) is amended by deleting the phrase "subject to the lien creation, notice and hearing provisions of G.S. 20-161.2" and substituting the phrase "and the registered owner of that vehicle shall become liable for removal and storage charges".

Sec. 8. G.S. 153A-132(c) is amended by rewriting the second paragraph to read:

"When an abandoned or junked motor vehicle is removed, the county shall give notice to the owner as required by G.S. 20-222(a) and (b)."

Sec. 9. G.S. 153A-132(d) is rewritten to read:

"(d) Hearing Procedure. Regardless of whether a county does its own removal and disposal of motor vehicles or contracts with another person to do so, the county shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-220 apply.

(1) If the county operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 8, Chapter 20, apply.

(2) If the county operates in such a way that it is responsible for collecting towing fees, it shall:

a. provide by contract or ordinance for a schedule of reasonable towing fees,

b. provide a procedure for a prompt fair hearing to contest the towing,

c. provide for an appeal to district court from that hearing,

d. authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and

e. provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause

hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the county may destroy it."

Sec. 10. G.S. 153A-132(e) and (f) are repealed.

Sec. 11. G.S. 160A-303(c) is amended by deleting the last four sentences and substituting the following:

"When an abandoned or junked motor vehicle is removed, the city shall give notice to the owner as required by G.S. 20-222(a) and (b)."

Sec. 12. G.S. 160A-303(d) is rewritten to read:

"(d) Hearing Procedure. Regardless of whether a city does its own removal and disposal of motor vehicles or contracts with another person to do so, the city, shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-220 apply.

(1) If the city operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 8, Chapter 20, apply.

(2) If the city operates in such a way that it is responsible for collecting towing fees, it shall:

a. provide by contract or ordinance for a schedule of reasonable towing fees,

b. provide a procedure for a prompt fair hearing to contest the towing,

c. provide for an appeal to district court from that hearing,

d. authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and

e. provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the city may destroy it."

Sec. 13. G.S. 160A-303(e) and (h) are repealed.

Sec. 14. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 2nd day of June, 1983.

S. B. 40 CHAPTER 421

AN ACT TO AMEND CHAPTER 66, ARTICLE 19, TO CLARIFY THE SCOPE OF THE BUSINESS OPPORTUNITY SALES ACT.

The General Assembly of North Carolina enacts:

Section 1. A new section designated as G.S. 66-94.1 is added immediately following G.S. 66-94 to read as follows:

"§ 66-94.1. *Responsible sellers exemption.*—(a) The provisions of Article 19 shall not apply to the sale or lease of any products, equipment, supplies or services where:

(1) The seller has not derived net income from such sales within the State during either of its two previous fiscal years, and does not intend to derive net income from such sales during its current fiscal year; and

(2) The primary commercial activity of the seller or its affiliate is substantially different from the sale of the goods or services to the purchaser, and the gross revenues received by the seller from all such

sales during the current and each of the two previous fiscal years do not exceed ten percent (10%) of the total gross revenues from all operations for the same period of the seller and any other affiliated entity contractually obligated to compensate the purchaser for the purchaser's business activities arising from the sale; and

(3) The sale results in an improvement to realty owned or leased by the purchaser which enables the purchaser to receive goods on consignment from the seller or its affiliate. An 'improvement to realty' occurs when a building or other structure is constructed or when significant improvements to an existing building or structure are made; and

(4) The seller has either a net worth on a consolidated basis, according to its most recent audited financial statement, of not less than five million dollars ($5,000,000) or has obtained a surety bond from a surety company authorized to do business in this State in an amount equal to or greater than the gross revenues received from the sale or lease of products, equipment, supplies or services in this State during the preceding 12-month period which enabled the purchaser to start a business.

(b) Any seller satisfying the requirements of subsection (a) shall file with the Secretary of State two copies of a document signed under oath by the seller or one authorized to sign on behalf of the seller containing the following information:

(1) The name of the seller and whether the seller is doing business as an individual, partnership or corporation;

(2) The principal business address of the seller;

(3) A brief description of the products, equipment, supplies or services being sold or leased by the seller; and

(4) A statement which explains the manner in which each of the requirements of subsection (a) are met."

Sec. 2. G.S. 66-94 is amended by deleting the words and figure "fifty dollars ($50.00)" in line 7 of subsection (4) and inserting in lieu thereof the words and figure "one hundred dollars ($100.00)"; and by deleting the words and figure "one hundred dollars ($100.00)" from lines 29 and 30 and inserting in lieu thereof the words and figure "two hundred dollars ($200.00)".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1983.

H. B. 579 CHAPTER 422

AN ACT TO INCREASE THE MINIMUM AMOUNT FOR CONSTRUCTION CONTRACTS WHICH REQUIRE PERFORMANCE AND PAYMENT BONDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44A-26(a) is hereby amended by deleting the words and figures "ten thousand dollars ($10,000)" and inserting in lieu thereof the words and figures "thirty thousand dollars ($30,000)".

Sec. 2. This act shall apply only when the total amount of construction contracts awarded for any one project does not exceed thirty thousand dollars ($30,000).

Sec. 3. This act applies to the City of Charlotte only.

Sec. 4. This act shall become effective 60 days after ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

H. B. 607 CHAPTER 423

AN ACT TO PROHIBIT HUNTING FROM ROADS AND TO PROHIBIT DEER HUNTING ON THE LANDS OF ANOTHER WITHOUT THE CONSENT OF THE LANDOWNER IN WILSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to hunt, take, or attempt to take deer by the use of a firearm from a right-of-way of any public numbered road or highway maintained by the North Carolina Department of Transportation without first obtaining the written permission of the owner of the land onto or across which the firearm is discharged where such lands abut the public numbered roads or highways maintained by the North Carolina Department of Transportation.

Sec. 2. Violation of this act is a misdemeanor punishable by a fine not to exceed fifty dollars ($50.00) or by imprisonment for a period not to exceed 30 days.

Sec. 3. All peace officers of the county and State, including wildlife enforcement officers, are authorized, and it is their duty to aid in the enforcement of this act.

Sec. 4. This act applies only to Wilson County.

Sec. 5. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

H. B. 825 CHAPTER 424

AN ACT TO ADD DUPLIN COUNTY TO THE LIST OF COUNTIES THAT MAY USE ATTACHMENT AND GARNISHMENT TO COLLECT FEES FOR AMBULANCE SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44-51.8 is amended by adding Duplin County in the proper alphabetical order.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

H. B. 1001 **CHAPTER 425**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF ELLENBORO AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Ellenboro is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF ELLENBORO.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. *Incorporation.* The Town of Ellenboro, North Carolina in the County of Rutherford, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Ellenboro', hereinafter at times referred to as the 'Town'.

"Sec. 1.2. *Powers.* The Town of Ellenboro shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be conferred, either expressly or by implication, upon the Town of Ellenboro, specifically, or upon municipal corporations, generally, by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. *Corporate Limits.* The corporate limits of the Town of Ellenboro shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the Town, and as the same may be altered from time to time in accordance with law. An official map or description showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map or description of the Town shall be made.

"ARTICLE II.

"MAYOR AND TOWN COUNCIL.

"Sec. 2.1. *Governing Body.* The Mayor and Town Council, elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of the Town, and in conformity with applicable laws, the Mayor and Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 2.2. *Town Council; Composition; Terms of Office.* The Town Council shall be composed of 5 members, each of whom shall be elected for a term of 2 years in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. *Mayor; Term of Office; Duties.* The Mayor shall be elected in the manner provided by Article III of this Charter to serve for a term of 2 years, or until his successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Council. He shall have the right to vote only when there are an equal number of votes in the affirmative and the negative on any motion before the Council. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town.

"Sec. 2.4. *Mayor Pro Tempore.* In accordance with applicable State laws, the Town Council shall appoint one of its members to act as Mayor pro tempore to perform the duties of the Mayor in the Mayor's absence or disability. The

Mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"Sec. 2.5. *Meetings of the Board.* In accordance with applicable General Statutes, the Board shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 2.6. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of town ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the board. The enacting clause of all town ordinances shall be: 'Be it ordained by the Board of Aldermen of the Town of Ellenboro'.

"Sec. 2.7. *Voting Requirements; Quorum.* Official action of the board shall be, except as provided otherwise by law, by majority vote, provided that a quorum, consisting of a majority of the actual membership of the board, is present. Vacant seats are to be subtracted from the normal board membership to determine the actual membership.

"Sec. 2.8. *Qualifications for Office; Vacancies; Compensation.* The compensation of board members, the filling of vacancies on the board, and the qualifications of board members shall be in accordance with applicable provisions of the General Statutes.

"ARTICLE III.

"ELECTIONS.

"Sec. 3.1. *Regular Municipal Elections; Conduct and Method of Election.* Regular municipal elections shall be held in the Town every two years in odd numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the Council shall be elected according to the nonpartisan plurality method of election.

"Sec. 3.2. *Election of Council Members.* At the regular municipal election in 1983 and biennially thereafter, all council members shall be nominated and voted upon by the voters of the Town voting at large.

"Sec. 3.3. *Election of the Mayor.* At the regular municipal election in 1983, and biennially thereafter, there shall be elected a Mayor to serve a term of two years. The Mayor shall be elected by the voters of the Town voting at large.

"ARTICLE IV.

"ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. *Form of Government.* The Town shall operate under the Mayor-Council form of government, in accordance with Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. *Administrative Officers and Employees.* Consistent with applicable State laws, the Town Council may establish positions, provide for the appointment of administrative officers and employees, and generally organize the Town government in order to promote the orderly and efficient administration of the affairs of the Town.

"Sec. 4.3. *Consolidation of Administrative Functions.* The Town Council may consolidate any two or more administrative positions in the Town government or may assign the functions of any position to the holder or holders

of any other position, subject to the Local Government Budget and Fiscal Control Act, and other applicable State laws.

"ARTICLE V.

"SPECIAL PROVISIONS.

"Sec. 5.1. *Assessments for Street and Sidewalk Improvements; Petition Unnecessary.*

A. In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Town Council is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this section.

B. The Town Council may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the Board as a fact:

(1) That the street improvement project does not exceed 1,200 linear feet, and

(2) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or

(3) That it is in the public interest to connect two streets, or portions of a street already improved, or

(4) That it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

C. For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

D. In addition to any authority which is now or may hereinafter be granted by general law to the Town for making sidewalk improvements, the Town Council is hereby authorized without the necessity of petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Town Council may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

E. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Council shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

F. The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Ellenboro and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein.

(a) Any acts concerning the property, affairs or government of public schools in the Town of Ellenboro.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter 64, Private Laws of 1889
Chapter 272, Private Laws of 1899
Chapter 224, Private Laws of 1901
Chapter 68, Private Laws of 1913 (Extra Session)
Chapter 178, Private Laws of 1917
Chapter 295, Session Laws of 1953
Chapter 820, Session Laws of 1969
Chapter 5, Session Laws of 1977.

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. All existing ordinances and resolutions of the Town of Ellenboro and all existing rules or regulations of departments or agencies of the Town of Ellenboro, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

Sec. 8. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Ellenboro or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 9. If any of this act or the applications thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 11. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

H. B. 565 CHAPTER 426

AN ACT TO AMEND G.S. 20-79.2 PERTAINING TO TRANSPORTER REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

Section 1. Subsection (b) of G.S. 20-79.2 is rewritten to read:

"(b) Any person engaged in a business which owns and operates a fleet of five or more trucks licensed for 15,000 pounds gross weight or more who operates and maintains their own repair facilities may be issued one transporter plate pursuant to subsection (a) for the sole purpose of road testing their repaired trucks which will become eligible to be licensed for 15,000 pounds gross weight or more, subject to weight limitations as provided by law, within a 10 mile radius of the repair facility. A motor vehicle liability insurance shall be maintained on such trucks at all times."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

S. B. 49 CHAPTER 427

AN ACT RELATING TO THE APPOINTMENT OF NOTARIES PUBLIC.

The General Assembly of North Carolina enacts:

Section 1. Chapter 10 of the General Statutes is amended by adding a new section following G.S. 10-1 to read:

"Sec. 10-1.1. *Requirements for appointment.*—(a) To be eligible for appointment as a notary public a person shall:

(1) Apply for appointment on a form to be provided by the Secretary of State to be made available at the office of the Register of Deeds of each county.

(2) Be 18 years of age or older and registered to vote in the State of North Carolina.

(3) Possess a high school diploma or its equivalent.

(4) Obtain a recommendation as to character and fitness from one publicly elected official in North Carolina.

(5) Satisfactorily complete a course of study approved by the Secretary of State which shall consist of not less than three hours nor more than six hours of classroom instruction; except that practicing attorneys at law shall be exempt from this requirement. Local bar associations shall be qualified to teach or conduct a course of instruction upon authorization by the Secretary of State.

(6) Purchase a manual approved by the Secretary of State that describes the duties, authority and ethical responsibilities of notaries public.

(b) The Secretary of State may waive the requirements in subdivisions (a)(3), (a)(4), (a)(5), and (a)(6) of this section when a person applies for a second or subsequent commission."

Sec. 2. G.S. 10-1 is amended by inserting between the second and third sentences of the second paragraph thereof the following sentence: "The Secretary of State may revoke the commission of a notary who in the performance of his duties fails to comply with the laws of the State."

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

S. B. 239 CHAPTER 428

AN ACT TO ABOLISH THE ELECTIVE OFFICE OF MITCHELL COUNTY ACCOUNTANT SO AS TO ALLOW THE COUNTY BOARD OF COMMISSIONERS TO APPOINT A COUNTY FINANCE OFFICER UNDER THE GENERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Section 7 of Chapter 973, Session Laws of 1967, is amended by deleting the words ", and County Accountant".

Sec. 2. No County Accountant shall be elected by the voters of Mitchell County in 1984 or thereafter.

Sec. 3. This act is effective upon ratification. The current County Accountant of Mitchell County shall serve until the first Monday of December of 1984, and the office of County Accountant of Mitchell County is abolished as of that date; provided that if the office shall become vacant at an earlier date, it is abolished as of the existence of the vacancy.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

S. B. 242 CHAPTER 429

AN ACT TO AMEND THE GREENSBORO PUBLIC SCHOOL CODE.

The General Assembly of North Carolina enacts:

Section 1. Section 2.6 of the Greensboro Public School Code, being Section 4 of Chapter 385, Public Laws of 1949, is rewritten to read:

"Sec. 2.6. Compensation. The Board of Commissioners of Guilford County, as the tax-levying authority for the Greensboro City Schools Administrative Unit, shall, pursuant to G.S. 115C-38 and under the procedures outlined in G.S. 153A-92, fix the compensation and expense allowances to be paid to the members of the Greensboro City Board of Education."

Sec. 2. Section 6 of Chapter 181, Session Laws of 1979 is amended by adding a new subsection to read:

"(d) Within 60 days after enactment of this amendment the Board of Elections of Guilford County shall arrange a drawing by lot among the seven seats, so that at the expiration of the present four-year terms of the present incumbents the terms of their successors, or their terms, if reelected, shall be staggered chronologically with the terms of four seats to expire after two years and thereafter to be four-year terms and the terms of three seats to expire after four years and thereafter to be four-year terms."

Sec. 3. The third sentence of Section 2.2(a) of the Greensboro Public School Code, being Section 4 of Chapter 385, Public Laws of 1949, as rewritten by Section 2 of Chapter 181, Session Laws of 1979, is rewritten to read:

"All persons elected shall serve for terms of four years except as hereinafter provided."; and

Section 2.2 (c) of the Greensboro Public School Code is amended by adding immediately after the words "four years", the words "except as hereinafter provided".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

S. B. 261 CHAPTER 430

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON TO CLARIFY THE AUTHORITY OF CITY COUNCIL TO CONTRACT WITH NON-CITY AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Wilmington, being Chapter 495, Session Laws of 1977, is amended by adding a new section to read:

"Sec. 13.6. Contracts with non-city agencies. In undertaking and engaging in any programs authorized by general or local law, the Wilmington City Council may enter into contracts with any governmental agency, person, association, or corporation and may appropriate funds to such agency, person, association or corporation to undertake or to carry out part or all of such programs. In the event that funds appropriated for such purposes are turned over to any agency, person, association, or corporation, other than the City for expenditure, no such expenditure shall be made without the express authorization of the City, and all such expenditures shall be accounted for by the agency or organization in accordance with G.S. 159-40."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

S. B. 282 **CHAPTER 431**

AN ACT RELATING TO MOTOR VEHICLE TRAFFIC AT THE GREENSBORO-HIGH POINT AIRPORT AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1273, Session Laws of 1953, as amended by Chapter 245, Session Laws of 1961 and Chapter 354, Session Laws of 1975 is amended as follows:

(1) by adding a new section to read:

"Sec. 3.1. The Board of Directors of the Greensboro-High Point Airport Authority may by rule or regulation set aside spaces on the Greensboro/High Point/Winston-Salem Regional Airport in designated parking areas in which motor vehicles may be parked for specified periods of time. To regulate parking in such spaces, the Board of Directors may install a system of parking meters and make it unlawful for any person to park a motor vehicle in a metered space without activating the meter for the entire time that the vehicle is parked, up to the maximum length of time allowed for that space. The meters may be activated by using coins of the United States. Proceeds from the use of such parking meters must be used to defray the cost of enforcing and administering traffic and parking rules and regulations or other purposes related to parking and traffic or as a pledge to secure the payment of or in payment of revenue bonds issued in whole or in part for the construction of such parking areas or the roadways on the Airport operated by the Airport Authority."; and

(2) by deleting, in its entirety, Section 5, including subsections (a) through (g) inclusive of Section 5 as added by Chapter 245, Session Laws of 1961, and as amended by Chapter 354, Session Laws of 1975, and substituting the following therefor:

"Sec. 5. Penalties for violations. Any person, firm or corporation violating any rule or regulation adopted by the Board of Directors of the Greensboro-High Point Airport Authority pursuant to this act shall be guilty of a misdemeanor and fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 10 days, in the discretion of the court.

"Sec. 5.1. Any officer of the Airport Police established by the Greensboro-High Point Airport Authority is authorizied and empowered in the case of the violation of any regulation or rule adopted by the Authority relating to the parking of automobiles, trucks, and motorcycles in any loading zone, or designated parking area owned by the Authority, or upon any public street within the property of the Authority, and made effective pursuant to the provisions of this act to give, serve, or mail, any person a ticket or citation for any such violation; any person receiving such citation or ticket for any such automobile, truck, or motocycle parking violation may pay, within the time named in such ticket or citation, to the Authority, for delivery to the finance office of Guilford County, in person or by mail, the sum of three dollars ($3.00) for each violation as payment of a penalty therefor and be discharged from any criminal prosecution or penalties for such violation. In the event any officer of said Airport Police deems it necessary to move any automobile, truck, or motorcycle from an area where a violation occurs, such officer is authorized and empowered to move, or cause the moving of, such automobile, truck, or motorcycle, and to park and store or cause to be parked and stored such automobile, truck, or motorcycle, and neither the Authority nor the said officer

shall have liability for any such charges for removal and storage of such automobile, truck, or motorcycle. The owner or person in charge of such automobile, truck, or motorcycle shall pay all costs of such removal and storage and the same shall constitute a lien on the vehicle that may be enforced in the manner provided by law for enforcement of possessory liens for towing and storage of motor vehicles.

"Sec. 5.2. No State tax shall be paid to the State of North Carolina in cases finally disposed of by payment of the amount of the penalty.

"Sec. 5.3. It shall be the duty of the Airport Police established by the Greensboro-High Point Airport Authority to enforce the provisions of this act, and the Authority shall collect the penalties for violation of the rules and regulations adopted and made effective hereunder and shall account for said funds.

"Sec. 5.4. All penalties collected pursuant to the provisions of this act shall be paid by the Greensboro-High Point Airport Authority to the finance office of Guilford County for disbursement in the manner provided by law.

"Sec. 5.5. Nothing contained in Sections 5.1, 5.2, 5.3, or 5.4 hereof shall prevent prosecution and imposition of the penalties for violations pursuant to provisions of Section 5 hereof in the event payment of said three dollars ($3.00) penalty is not made. In any such prosecution, the rules and regulations of the Authority shall be considered municipal ordinances within the meaning of G.S. 20-162.1."

Sec. 2. If any one or more sections, clauses, sentences or parts of this act shall be adjudged invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions held invalid, and the inapplicability or invalidity of any section, clause, sentence or part of this act in one or more instances or circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

S. B. 290 CHAPTER 432

AN ACT REGARDING THE AUTHORITY OF THE CITY OF WILMINGTON TO REQUIRE A CERTIFICATE OF APPROPRIATENESS FOR EXTERIOR WORK TO STRUCTURES IN AN AREA DESIGNATED AS AN HISTORIC DISTRICT OVERLAY.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Wilmington, being Chapter 495, Session Laws of 1977, is amended by adding a new section to read:

"Sec. 23.8. Certificates of appropriateness in an area designated as an historic district overlay.

Notwithstanding the provisions of G.S. 160A-397, the City Council of the City of Wilmington may by ordinance require the issuance of a certificate of appropriateness for exterior changes visible only from public rights-of-way, excluding alleys, within historic districts which overlay other zoning districts. For purposes of this section, an exterior change may include one or more of the items defined in G.S. 160A-397 as 'exterior features'."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

S. B. 375 CHAPTER 433

AN ACT TO PROVIDE A PROCEDURE FOR THE FILLING OF VACANCIES IN ELECTIVE OFFICE IN THE TOWN OF CHINA GROVE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of China Grove, being Chapter 309, Session Laws of 1903, is amended by adding a new section to read:

"Sec. 3.1. Filling of vacancies. (a) A vacancy in the office of alderman shall be filled by appointment of the remaining members of the Board of Aldermen within 60 days after said vacancy occurs in the following manner and priorities:

(1) In descending order, the individuals receiving the highest number of votes in the next previous municipal election that did not get elected, provided that only person who filed notice of candidacy and whose names were printed on the ballot shall be eligible under this subdivision.

(2) The chairman of the China Grove Planning Board.

(3) The chairman of the China Grove Zoning Board of Adjustment.

(4) Any other qualified citizen of the Town of China Grove.

(b) When a vacancy of office of mayor occurs, the successor mayor shall be chosen within 60 days after the vacancy occurs in the following manner and priorities:

(1) The Mayor Pro-Tem.

(2) In descending order, the members of the Board of Aldermen receiving the highest number of votes in the next previous municipal election.

(3) In descending order, the individuals receiving the highest number of votes in the next previous municipal election that did not get elected; provided that only persons who filed notice of candidacy and whose names were printed on the ballot are eligible under this subdivision.

(4) The chairman of the China Grove Planning Board.

(5) The chairman of the China Grove Zoning Board of Adjustment.

(6) Any other qualified citizen of the Town of China Grove.

(c) Any successor alderman or mayor shall otherwise qualify for office, consent to said appointment and serve only the remaining term to which they are appointed."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

S. B. 466 CHAPTER 434

AN ACT TO REPEAL LOCAL LEGISLATION PERTAINING TO DAIRY HERDS IN BUNCOMBE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 334 of the Public-Local Laws of 1921 is repealed.

Sec. 2. Chapter 404 of the Public-Local laws of 1935 is repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

S. B. 1 CHAPTER 435

AN ACT TO PROVIDE SAFE ROADS BY REQUIRING MANDATORY JAIL TERMS FOR GROSSLY AGGRAVATED DRUNKEN DRIVERS, PROVIDING AN EFFECTIVE DETERRENT TO REDUCE THE INCIDENCE OF IMPAIRED DRIVING, AND CLARIFYING THE STATUTES RELATED TO DRINKING AND DRIVING.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the Safe Roads Act of 1983.

Sec. 2. The following table lists the parts and sections contained in this act:

PART I. DRIVING WHILE IMPAIRED.

—DMV RECORDS ADMISSIBLE TO PROVE PRIOR CONVICTION/Sec. 3.
—PRETRIAL RELEASE OF IMPAIRED DRIVERS/Sec. 4.
—CROSS-REFERENCE TO PROSECUTOR DISCLOSURE REQUIREMENTS/Sec. 5.
—IMMUNITY FOR COMMUNITY SERVICE WORK/Sec. 5.1.
—CROSS-REFERENCE TO CONTROLLED DRINKING PROGRAMS/Sec. 6.
—NO BEER DRINKING BY DRIVER/Sec. 7.
—MOTOR VEHICLE LAW DEFINITIONS/Sec. 8.
—IMPAIRED INSTRUCTION/Sec. 9.
—REVOCATION FOR IMPAIRED INSTRUCTION OR MILITARY REVOCATION/ Sec. 10.
—IMPLIED CONSENT; REVOCATION FOR REFUSAL/Sec. 11.
—PRELIMINARY ROADSIDE TESTING/Sec. 12.
—REVOCATION FOR FAILURE TO COMPLETE DUI SCHOOL/Sec. 13.
—TEN-DAY, IMMEDIATE PRETRIAL REVOCATION/Sec. 14.
—REVOCATION FOR IMPAIRED DRIVING CONVICTION/Sec. 15.
—DMV PROCEDURE AFTER COURT-ORDERED REVOCATIONS/Sec. 16.
—LENGTHS OF REVOCATIONS FOR IMPAIRED DRIVING/Sec. 17.
—REVOCATION FOR FEDERAL COURT CONVICTIONS/Sec. 18.
—CONVICTION DEFINED/Sec. 19.
—CERTIFIED RECORDS BY P.I.N./Sec. 20.
—FORFEITURE OF VEHICLE/Sec. 21.
—IMPAIRED DRIVING CHECKS/Sec. 22.
—REPEAL OF PRESENT OFFENSES/Sec. 23.
—IMPAIRED DRIVING OFFENSE DEFINED/Sec. 24.
—PROSECUTOR DISCLOSURE REQUIREMENTS/Sec. 25.

—CHEMICAL TESTING PROCEDURES/Sec. 26.
—FELONY AND MISDEMEANOR DEATH BY VEHICLE/Sec. 27.
—IMPAIRED DRIVING APPLICABLE TO ROAD CONSTRUCTION VEHICLES/ Sec. 28.
—SENTENCING PROCEDURES AND PUNISHMENT FOR IMPAIRED DRIVING OFFENSES/Sec. 29.
—ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOLS/Sec. 30.
—LIMITED DRIVING PRIVILEGE/Sec. 31.

PART II. PROTECTION OF YOUTHFUL DRIVERS.
—RAISING BEER PURCHASE AGE/Sec. 32.
—GROUNDS FOR REVOKING PROVISIONAL LICENSE/Sec. 33.
—DRIVING BY PROVISIONAL LICENSEE AFTER DRINKING/Sec. 34.
—FRAUDULENT USE OF ID; AIDER AND ABETTOR PUNISHMENT/Sec. 35.
—REVOCATION FOR UNDERAGE PURCHASERS OF ALCOHOL/Sec. 36.

PART III. DRAM SHOP OWNER LIABILITY.
—DRAM SHOP OWNER LIABILITY; BURDEN OF PROOF/Sec. 37.
—STATUTE OF LIMITATIONS/Sec. 38.
—ABC PERMITTEE'S REQUIREMENTS/Sec. 39.
—REVOCATION OF PERMIT FOR NONPAYMENT OF JUDGMENTS/Sec. 40.
—LOCAL BOARD NOT COUNTY OR CITY AGENCY/Sec. 41.
—NO LEGISLATIVE INTENT AS TO CIVIL LIABILITY FOR SALES TO INTOXICATED PERSONS/Sec. 41.1.

PART IV. EFFECTIVE DATE AND TRANSITIONAL PROVISIONS.
—SAVING CLAUSE FOR PROSECUTIONS AND REVOCATIONS/Sec. 42.
—APPLICABILITY OF DRAM SHOP PROVISIONS/Sec. 43.
—CAPTIONS NOT LIMIT TEXT/ONLY FOR REFERENCE/Sec. 44.
—SEVERABILITY/Sec. 45.
—RESERVE FUND FOR IMPLEMENTATION/Sec. 45.1.
—EFFECTIVE DATE/Sec. 46.

PART I. DRIVING WHILE IMPAIRED.
—DMV RECORDS ADMISSIBLE TO PROVE PRIOR CONVICTION.

Sec. 3. G.S. 8-35.1 is rewritten to read as follows:

"§ 8-35.1. *Division of Motor Vehicles' record admissible as prima facie evidence of convictions of offenses involving impaired driving.*— Notwithstanding the provisions of G.S. 15A-924(d), a properly certified copy under G.S. 8-35 or G.S. 20-26(b) of the license records of a defendant kept by the Division of Motor Vehicles under G.S. 20-26(a) is admissible as prima facie evidence of any prior conviction of a defendant for an offense involving impaired driving as defined in G.S. 20-4.01(24a)."

—PRETRIAL RELEASE OF IMPAIRED DRIVERS.

Sec. 4. Chapter 15A of the General Statutes is amended by adding a new G.S. 15A-534.2 to read as follows:

"§ 15A-534.2. *Detention of impaired drivers.*—(a) A judicial official conducting an initial appearance for an offense involving impaired driving, as defined in G.S. 20-4.01(24a), must follow the procedure in G.S. 15A-511 except as modified by this section. This section may not be interpreted to impede a defendant's right to communicate with counsel and friends.

(b) If at the time of the initial appearance the judicial official finds by clear and convincing evidence that the impairment of the defendant's physical or mental faculties presents a danger, if he is released, of physical injury to himself or others or damage to property, the judicial official must order that the defendant be held in custody and inform the defendant that he will be held in custody until one of the requirements of subsection (c) is met; provided, however, that the judicial official must at this time determine the appropriate conditions of pretrial release in accordance with G.S. 15A-534.

(c) A defendant subject to detention under this section has the right to pretrial release under G.S. 15A-534 when the judicial official determines either that:

(1) The defendant's physical and mental faculties are no longer impaired to the extent that he presents a danger of physical injury to himself or others or of damage to property if he is released; or

(2) A sober, responsible adult is willing and able to assume responsibility for the defendant until his physical and mental faculties are no longer impaired. If the defendant is released to the custody of another, the judicial official may impose any other condition of pretrial release authorized by G.S. 15A-534, including a requirement that the defendant execute a secured appearance bond.

The defendant may be denied pretrial release under this section for a period no longer than 24 hours, and after such detention may be released only upon meeting the conditions of pretrial release set in accordance with G.S. 15A-534. If the defendant is detained for 24 hours, a judicial official must immediately determine the appropriate conditions of pretrial release in accordance with G.S. 15A-534.

(d) In making his determination whether a defendant detained under this section remains impaired, the judicial official may request that the defendant submit to periodic tests to determine his alcohol concentration. Instruments acceptable for making preliminary breath tests under G.S. 20-16.3 may be used for this purpose as well as instruments for making evidentiary chemical analyses. Unless there is evidence that the defendant is still impaired from a combination of alcohol and some other impairing substance or condition, a judicial official must determine that a defendant with an alcohol concentration less than 0.05 is no longer impaired. The results of any periodic test to determine alcohol concentration may not be introduced in evidence:

(1) Against the defendant by the State in any criminal, civil, or administrative proceeding arising out of an offense involving impaired driving; or

(2) For any purpose in any proceeding if the test was not performed by a method approved by the Commission for Health Services under G.S. 20-139.1 and by a person licensed to administer the test by the Department of Human Resources.

The fact that a defendant refused to comply with a judicial official's request that he submit to a chemical analysis may not be admitted into evidence in any criminal action, administrative proceeding, or a civil action to review a decision reached by an administrative agency in which the defendant is a party."

—CROSS-REFERENCE TO PROSECUTOR DISCLOSURE REQUIREMENTS.

Sec. 5. G.S. 15A-931(a) is amended by deleting the first word of the subsection and inserting in its place the words and punctuation "Except as provided in G.S. 20-138.4, the".

—IMMUNITY FOR COMMUNITY SERVICE WORK.

Sec. 5.1. G.S. 15A-1342 is amended by adding a new subsection (j) to read as follows:

"(j) Immunity for Injury to Defendant Performing Community Service. A person is not liable for damages for any injury or loss sustained by a defendant performing community or reparation service unless the injury is caused by the person's gross negligence or intentional wrongdoing. As used in this subsection, 'person' includes any governmental unit or agency, nonprofit corporation, or other nonprofit agency that is supervising the defendant or for whom the defendant is performing community service work, as well as any person employed by the agency or corporation while acting in the scope and course of his employment. This subsection does not affect the immunity from civil liability in tort available to local governmental units or agencies. Notice of the provisions of this subsection must be furnished to the defendant at the time he is served with a copy of the probation judgment or deferred prosecution order."

—CROSS-REFERENCE TO CONTROLLED DRINKING PROGRAMS.

Sec. 6. G.S. 18B-103(9) is rewritten to read as follows:

"(9) The possession and use of alcohol acquired for controlled-drinking programs as authorized under G.S. 20-139.1(g)."

—NO BEER DRINKING BY DRIVER.

Sec. 7. G.S. 18B-401 is amended in subsection (a) by deleting the caption and the first sentence of that subsection and inserting in their place the following caption and sentences:

"(a) Opened Containers. It shall be unlawful for a person to transport fortified wine or spirituous liquor in the passenger area of a motor vehicle in other than the manufacturer's unopened original container. It shall be unlawful for a person who is driving a motor vehicle on a highway or public vehicular area to consume in the passenger area of that vehicle any malt beverage or unfortified wine."

G.S. 18B-401 is further amended in subsection (c) by deleting from that subsection the word "Definition" in the caption and inserting in its place the word "Definitions", and by inserting immediately after the caption the following sentences: "The definitions in Chapter 20 of the General Statutes apply in interpreting this section. If the seal on a container of alcoholic beverages has been broken, it is opened within the meaning of this section."

—MOTOR VEHICLE LAW DEFINITIONS.

Sec. 8. G.S. 20-4.01 is amended by rewriting subdivision 32 of that section and by adding new subdivisions (0.1), (0.2), (3a), (3b), (14a), (24a), (33a) and (48a) to read as follows:

"(0.1) Alcohol. Ethyl alcohol.

"(0.2) Alcohol Concentration. The concentration of alcohol in a person, expressed either as:

a. Grams of alcohol per 100 milliliters of blood; or

b. Grams of alcohol per 210 liters of breath.

"(3a) Chemical Analysis. A chemical test of the breath or blood of a person to determine his alcohol concentration, performed in accordance with G.S.

20-139.1. The term 'chemical analysis' includes duplicate or sequential analyses when necessary or desirable to insure the integrity of test results.

"(3b) Chemical Analyst. A person granted a permit by the Department of Human Resources under G.S. 20-139.1 to perform chemical analyses.

"(14a) Impairing Substance. Alcohol, controlled substance under Chapter 90 of the General Statutes, any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances.

"(24a) Offense Involving Impaired Driving. Any of the following offenses:

a. Impaired driving under G.S. 20-138.1.

b. Death by vehicle under G.S. 20-141.4 when conviction is based upon impaired driving or a substantially equivalent offense under previous law.

c. Involuntary manslaughter under G.S. 14-18 when conviction is based upon impaired driving or a substantially equivalent offense under previous law.

d. An offense committed in another jurisdiction substantially equivalent to the offenses in subparagraphs a through c.

e. A repealed or superseded offense substantially equivalent to impaired driving, including offenses under former G.S. 20-138 or G.S. 20-139.

A conviction under former G.S. 20-140(c) is not an offense involving impaired driving.

"(32) Public Vehicular Area. Any area within the State of North Carolina that is generally open to and used by the public, including by way of illustration and not limitation any drive, driveway, road, roadway, street, alley, or parking lot upon the grounds and premises of:

a. Any public or private hospital, college, university, school, orphanage, church, or any of the institutions, parks or other facilities maintained and supported by the State of North Carolina or any of its subdivisions; or

b. Any service station, drive-in theater, supermarket, store, restaurant, or office building, or any other business, residential, or municipal establishment providing parking space for customers, patrons, or the public; or

c. Any property owned by the United States and subject to the jurisdiction of the State of North Carolina. (The inclusion of property owned by the United States in this definition shall not limit assimilation of North Carolina law when applicable under the provisions of Title 18, United States Code, Section 13.)

The term 'public vehicular area' shall also include any beach area used by the public for vehicular traffic as well as any road opened to vehicular traffic within or leading to a subdivision for use by subdivision residents, their guests, and members of the public, whether or not the subdivision roads have been offered for dedication to the public. The term 'public vehicular area' shall not be construed to mean any private property not generally open to and used by the public.

"(33a) Relevant Time after the Driving. Any time after the driving in which the driver still has in his body alcohol consumed before or during the driving.

"(48a) Under the Influence of an Impairing Substance. The state of a person having his physical or mental faculties, or both, appreciably impaired by an impairing substance."

—IMPAIRED INSTRUCTION.

Sec. 9. G.S. 20-12.1 is rewritten to read as follows:

"§ 20-12.1. *Impaired instruction.*—(a) It is unlawful for any person to accompany another person driving a motor vehicle, in accordance with G.S. 20-11, or instruct another person driving a motor vehicle, in accordance with G.S. 20-7(l-1) and (m) or G.S. 20-12:

(1) While the person accompanying or instructing is under the influence of an impairing substance; or

(2) After having consumed sufficient alcohol that he has, at any relevant time after the driving, an alcohol concentration of 0.10 or more.

(b) An offense under this section is an implied-consent offense under G.S. 20-16.2."

—REVOCATION FOR IMPAIRED INSTRUCTION OR MILITARY REVOCATION.

Sec. 10. G.S. 20-16(a) is amended by deleting the period at the end of subdivision (8) and replacing it with ";" and by adding the following two subdivisions:

"(8a) Has been convicted of impaired instruction under G.S. 20-12.1;

"(8b) Has violated on a military installation a regulation of that installation prohibiting conduct substantially equivalent to conduct that constitutes impaired driving under G.S. 20-138.1 and, as a result of that violation, has had his privilege to drive on that installation revoked or suspended after an administrative hearing authorized by the commanding officer of the installation and that commanding officer has general court martial jurisdiction;".

—IMPLIED CONSENT; REVOCATION FOR REFUSAL.

Sec. 11. G.S. 20-16.2 is rewritten to read as follows:

"§ 20-16.2. *Implied consent to chemical analysis; mandator revocation of license in event of refusal; right of driver to request analysis.*—(a) Basis for Charging Officer To Require Chemical Analysis; Notification of Rights. Any person who drives a vehicle on a highway or public vehicular area thereby gives consent to a chemical analysis if he is charged with an implied-consent offense. The charging officer must designate the type of chemical analysis to be administered, and it may be administered when he has reasonable grounds to believe that the person charged has committed the implied-consent offense. Except as provided in subsection (b), the person charged must be taken before a chemical analyst authorized to administer a test of a person's breath, who must inform the person orally and also give him a notice in writing that:

(1) He has a right to refuse to be tested.

(2) Refusal to take any required test or tests will result in an immediate revocation of his driving privilege for at least 10 days and an additional 12-month revocation by the Division of Motor Vehicles.

(3) The test results, or the fact of his refusal, will be admissible in evidence at trial on the offense charged.

(4) If any test reveals an alcohol concentration of 0.10 or more, his driving privilege will be revoked immediately for at least 10 days.

(5) He may have a qualified person of his own choosing administer a chemical test or tests in addition to any test administered at the direction of the charging officer.

(6) He has the right to call an attorney and select a witness to view for him the testing procedures, but the testing may not be delayed for these purposes longer than 30 minutes from the time he is notified of his rights.

(a1) Meaning of Terms. Under this section, an 'implied-consent offense' is an offense involving impaired driving or an alcohol-related offense made subject to the procedures of this section. A person is 'charged' with an offense if he is arrested for it or if criminal process for the offense has been issued. A 'charging officer' is a law enforcement officer who arrests the person charged, lodges the charge, or assists the officer who arrested the person or lodged the charge by assuming custody of the person to make the request required by subsection (c) and, if necessary, to present the person to a judical official for an initial appearance.

(b) Unconscious Person May be Tested. If a charging officer has reasonable grounds to believe that a person has committed an implied-consent offense, and the person is unconscious or otherwise in a condition that makes him incapable of refusal, the charging officer may direct the taking of a blood sample by a person qualified under G.S. 20-139.1 or may direct the administration of any other chemical analysis that may be effectively performed. In this instance the notification of rights set out in subsection (a) and the request required by subsection (c) are not necessary.

(c) Request To Submit to Chemical Analysis; Procedure upon Refusal. The charging officer, in the presence of the chemical analyst who has notified the person of his rights under subsection (a), must request the person charged to submit to the type of chemical analysis designated. If the person charged willfully refuses to submit to that chemical analysis, none may be given under the provisions of this section, but the refusal does not preclude testing under other applicable procedures of law. Then the charging officer and the chemical analyst must without unnecessary delay go before an official authorized to administer oaths and execute an affidavit stating that the person charged, after being advised of his rights under subsection (a), willfully refused to submit to a chemical analysis at the request of the charging officer. The charging officer must immediately mail the affidavit to the Division. If the person's refusal to submit to a chemical analysis occurs in a case involving death or critical injury to another person, the charging officer must include that fact in the affidavit mailed to the Division.

(d) Consequences of Refusal; Right to Hearing Before Division; Issues. Upon receipt of a properly executed affidavit required by subsection (c), the Division must expeditiously notify the person charged that his license to drive is revoked for 12 months, effective on the tenth calendar day after the mailing of the revocation order unless, before the effective date of the order, the person requests in writing a hearing before the Division. If the person properly requests a hearing, he retains his license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws his request, or he fails to appear at a scheduled hearing. The person may request the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the hearing if he makes the request in writing at least three days before the

hearing. The person may subpoena any other witness he deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section. The hearing must be conducted in the county where the charge was brought, under the provisions for hearings held under G.S. 20-16(d), except that the hearing is limited to consideration of whether:

(1) The person was charged with an implied-consent offense;

(2) The charging officer had reasonable grounds to believe that the person had committed an implied-consent offense;

(3) The implied-consent offense charged involved death or critical injury to another person, if this allegation is in the affidavit;

(4) The person was notified of his rights as required by subsection (a); and

(5) The person willfully refused to submit to a chemical analysis upon the request of the charging officer.

If the Division finds that the conditions specified in this subsection are met, it must order the revocation sustained. If the Division finds that any of the conditions is not met, it must rescind the revocation. If the revocation is sustained, the person must surrender his license immediately upon notification by the Division.

(d1) Consequences of Refusal in Case Involving Death or Critical Injury. If the refusal occurred in a case involving death or critical injury to another person, no limited driving privilege may be issued. The 12-month revocation begins only after all other periods of revocation have terminated unless the person's license is revoked pursuant to G.S. 20-28, 20-28.1, 20-19(d), or 20-19(e). If the revocation is based on those sections, the revocation under this subsection begins at the time and in the manner specified in subsection (d) for revocations under this section. However, the person's eligibility for a hearing to determine if the revocation under those sections should be rescinded is postponed for one year from the date he would otherwise have been eligible for such a hearing. If the person's driver's license is again revoked while the 12-month revocation under this subsection is in effect, that revocation, whether imposed by a court or by the Division, may only take effect after the period of revocation under this subsection has terminated.

(e) Right to Hearing in Superior Court. If the revocation is sustained after the hearing, the person whose license has been revoked has the right to file a petition in the superior court for a hearing de novo upon the issues listed in subsection (d), in the same manner and under the same conditions as provided in G.S. 20-25 except that the de novo hearing is conducted in the judicial district where the charge was made.

(e1) Limited Driving Privilege after Six Months in Certain Instances. A person whose driver's license has been revoked under this section may apply for and a judge authorized to do so by this subsection may issue a limited driving privilege if:

(1) At the time of the refusal, the applicant held a valid driver's license;

(2) At the time of the refusal, he had not within the preceding 10 years been convicted of an offense involving impaired driving;

(3) At the time of the refusal, he had not in the preceding 10 years willfully refused to submit to a chemical analysis under this section;

(4) The implied-consent offense charged did not involve death or critical injury to another person;

(5) The underlying charge for which the defendant was requested to submit to a chemical analysis has been finally disposed of:

a. Other than by conviction; or

b. By a conviction of impaired driving under G.S. 20-138.1, at a punishment level authorizing issuance of a limited driving privilege under G.S. 20-179.3(b), and he has complied with at least one of the mandatory conditions of probation listed for the punishment level under which he was sentenced;

(6) Subsequent to the refusal he has had no unresolved pending charges for or additional convictions of an offense involving impaired driving; and

(7) His license has been revoked for at least six months for the refusal.

Except as modified in this subsection, the provisions of G.S. 20-179.3 relating to the procedure for application and conduct of the hearing and the restrictions required or authorized to be included in the limited driving privilege apply to applications under this subsection. If the case was finally disposed of in the district court, the hearing must be conducted in the district in which the refusal occurred by a district court judge. If the case was finally disposed of in the superior court, the hearing must be conducted in the district in which the refusal occurred by a superior court judge. A limited driving privilege issued under this section authorizes a person to drive if his license is revoked solely under this section or solely under this section and G.S. 20-17(2). If the person's license is revoked for any other reason, the limited driving privilege is invalid.

(f) Notice to Other States as to Nonresidents. When it has been finally determined under the procedures of this section that a nonresident's privilege to drive a motor vehicle in this State has been revoked, the Division must give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

(g) Repealed.

(h) Repealed.

(i) Right to Chemical Analysis Before Arrest or Charge. A person stopped or questioned by a law enforcement officer who is investigating whether the person may have committed an implied-consent offense may request the administration of a chemical analysis before any arrest or other charge is made for the offense. Upon this request, the officer must afford the person the opportunity to have a chemical analysis, if available, upon the procedures applicable had the person been charged. The request constitutes the person's consent to be transported by the law enforcement officer to the place where the chemical analysis is to be administered. Before the chemical analysis is made, the person must sign a form, to be supplied by the Division, confirming his request. The results of the chemical analysis are admissible in evidence in any proceeding in which they are relevant."

—PRELIMINARY ROADSIDE TESTING.

Sec. 12. G.S. 20-16.3 is rewritten to read as follows:

"§ 20-16.3. *Alcohol screening tests required of certain drivers; approval of test devices and manner of use by Commission for Health Services; use of test results or refusal.*—(a) When Alcohol Screening Test May Be Required; Not an Arrest. A law enforcement officer may require the driver of a vehicle to submit to an alcohol screening test within a relevant time after the driving if the officer has:

(1) Reasonable grounds to believe that the driver has consumed alcohol and has:

a. Committed a moving traffic violation; or

b. Been involved in an accident or collision; or

(2) An articulable and reasonable suspicion that the driver has committed an implied-consent offense under G.S. 20-16.2, and the driver has been lawfully stopped for a driver's license check or otherwise lawfully stopped or lawfully encountered by the officer in the course of the performance of the officer's duties.

Requiring a driver to submit to an alcohol screening test in accordance with this section does not in itself constitute an arrest.

(b) Approval of Screening Devices and Manner of Use. The Commission for Health Services is directed to examine and approve devices suitable for use by law enforcement officers in making on-the-scene tests of drivers for alcohol concentration. For each alcohol screening device or class of devices approved, the Commission must adopt regulations governing the manner of use of the device. For any alcohol screening device that tests the breath of a driver, the Commission is directed to specify in its regulations the shortest feasible minimum waiting period that does not produce an unacceptably high number of false positive test results.

(c) Tests Must Be Made with Approved Devices and in Approved Manner. No screening test for alcohol concentration is a valid one under this section unless the device used is one approved by the Commission for Health Services and the screening test is conducted in accordance with the applicable regulations of the Commission as to the manner of its use.

(d) Use of Screening Test Results or Refusal by Officer. The results of an alcohol screening test or a driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if there are reasonable grounds for believing that the driver has committed an implied-consent offense under G.S. 20-16.2. Negative or low results on the alcohol screening test may be used in factually appropriate cases by the officer, a court, or an administrative agency in determining whether a person's alleged impairment is caused by an impairing substance other than alcohol. Except as provided in this subsection, the results of an alcohol screening test may not be admitted in evidence in any court or administrative proceeding."

—REVOCATION FOR FAILURE TO COMPLETE DUI SCHOOL.

Sec. 13. Chapter 20 of the General Statutes is amended by adding a new G.S. 20-16.4 to read as follows:

"§ 20-16.4. *Revocation for failure to complete Alcohol and Drug Education Traffic School.*—(a) Division Must Revoke upon Notice of Willful Failure. Upon receipt of notice from an Alcohol and Drug Education Traffic School that a person assigned to the school as a court-imposed condition of probation has willfully failed to complete the program of instruction at the school successfully, the Division must revoke the person's driver's license for 12 months. A limited driving privilege does not authorize a person to drive while his license is revoked pursuant to the provisions of this section.

(b) Right of Notification and Hearing. Upon receipt of a properly executed notice of failure from the school, the Division must expeditiously notify the person that his license is revoked for 12 months, effective on the tenth calendar day after the mailing of the revocation order unless, before the effective date of

the order, the person requests in writing a hearing before the Division. If the person properly requests a hearing, he retains his license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or he fails to appear at a scheduled hearing. The person may request the hearing officer to subpoena the appropriate school personnel to appear in person at the hearing if he makes the request in writing at least three days before the hearing. The person may subpoena any other witness he deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section.

(c) Hearing Procedures; Issues. The hearing must be conducted in the county where the school is located, under the provisions for hearings held under G.S. 20-16(d), except that the hearing is limited to consideration of whether:

(1) The person was validly assigned to the school by a court;

(2) The person failed to complete the course of instruction successfully; and

(3) The failure was willful.

If the Division finds that the conditions specified in this subsection are met, it must order the revocation sustained. If the Division finds that any of the conditions is not met, it must rescind the revocation. If the revocation is sustained, the person must surrender his license immediately upon notification by the Division. The person may file a petition in superior court for a de novo review of the issues listed in this section, in the same manner and under the same conditions as provided in G.S. 20-25, except that the hearing must be held in the judicial district in which the school is located.

(d) When Failure Not Willful. A failure to complete the course of instruction successfully is not willful if it is based solely on a failure:

(1) To pay the prescribed fee and the person was unable to pay after making reasonable efforts to secure funds to pay it; or

(2) To attend classes and the person was unable to attend because of reasons over which he had no control other than alcoholism or drug abuse."

—TEN-DAY, IMMEDIATE PRETRIAL REVOCATION.

Sec. 14. Chapter 20 of the General Statutes is amended by adding a new section, G.S. 20-16.5, to read as follows:

"§ 20-16.5. *Immediate civil license revocation for certain persons charged with implied-consent offenses.*—(a) Definitions. As used in this section the following words and phrases have the following meanings:

(1) Charging Officer. As described in G.S. 20-16.2(a1).

(2) Clerk. As defined in G.S. 15A-101(2).

(3) Judicial Official. As defined in G.S. 15A-101(5).

(4) Revocation Report. A sworn statement by a charging officer and a chemical analyst containing facts indicating that the conditions of subsection (b) have been met. When one chemical analyst analyzes a person's blood and another chemical analyst informs a person of his rights and responsibilities under G.S. 20-16.2, the report must include the statements of both analysts.

(5) Surrender of a Driver's License. The act of turning over to a court or a law enforcement officer the person's most recent, valid driver's license or learner's permit issued by the Division or by a similar agency in another jurisdiction, or a limited driving privilege issued by a North Carolina court.

(b) Revocations for Persons Who Refuse Chemical Analyses or Have Alcohol Concentrations of 0.10 or More. A person's driver's license is subject to revocation under this section if:

(1) A law enforcement officer has reasonable grounds to believe that the person has committed an offense subject to the implied-consent provisions of G.S. 20-16.2;

(2) The person is charged with that offense as provided in G.S. 20-16.2(a);

(3) The charging officer and the chemical analyst comply with the procedures of G.S. 20-16.2 and G.S. 20-139.1 in requiring the person's submission to or procuring a chemical analysis; and

(4) The person:

a. Willfully refuses to submit to the chemical analysis; or

b. Has an alcohol concentration of 0.10 or more within a relevant time after the driving.

(c) Duty of Charging Officers and Chemical Analysts to Report to Judicial Officials. If a person's driver's license is subject to revocation under this section, the charging officer and the chemical analyst must execute a revocation report. If the person has refused to submit to a chemical analysis, a copy of the report to be submitted to the Division under G.S. 20-16.2(c) may be substituted for the revocation report if it contains the information required by this section. It is the specific duty of the charging officer to make sure that the report is expeditiously filed with a judicial official as required by this section.

(d) Which Judicial Official Must Receive Report. The judicial official with whom the revocation report must be filed is:

(1) The judicial official conducting the initial appearance on the underlying criminal charge if:

a. No revocation report has previously been filed; and

b. At the time of the initial appearance the results of the chemical analysis, if administered, or the reports indicating a refusal, are available.

(2) A judicial official conducting any other proceeding relating to the underlying criminal charge at which the person is present, if no report has previously been filed.

(3) The clerk of superior court in the county in which the underlying criminal charge has been brought if subdivisions (1) and (2) are not applicable at the time the charging officer must file the report.

(e) Procedure if Report Filed with Judicial Official When Person Is Present. If a properly executed revocation report concerning a person is filed with a judicial official when the person is present before that official, the judicial official must, after completing any other proceedings involving the person, determine whether there is probable cause to believe that each of the conditions of subsection (b) has been met. If he determines that there is such probable cause, he must enter an order revoking the person's driver's license for the period required in this subsection. The judicial official must order the person to surrender his license and if necessary may order a law enforcement officer to seize the license. The judicial official must give the person a copy of the revocation order. In addition to setting it out in the order the judicial official must personally inform the person of his right to a hearing as specified in subsection (g), and that his license remains revoked pending the hearing. Unless the person is not currently licensed, the revocation under this subsection

begins at the time the revocation order is issued and continues until the person's license has been surrendered for 10 days and the person has paid the applicable costs. If the person is not currently licensed, the revocation continues until 10 days from the date the revocation order is issued and the person has paid the applicable costs.

(f) Procedure if Report Filed with Clerk of Court When Person Not Present. When a clerk receives a properly executed report under subdivision (d)(3) and the person named in the revocation report is not present before the clerk, the clerk must determine whether there is probable cause to believe that each of the conditions of subsection (b) has been met. If he determines that there is such probable cause, he must mail to the person a revocation order by first class mail. The order must direct that the person on or before the effective date of the order either surrender his license to the clerk or appear before the clerk and demonstrate that he is not currently licensed, and the order must inform the person of the time and effective date of the revocation and of its duration, of his right to a hearing as specified in subsection (g), and that the revocation remains in effect pending the hearing. Revocation orders mailed under this subsection become effective on the fourth day after the order is deposited in the United States mail. If within five working days of the effective date of the order, the person does not surrender his license to the clerk or appear before the clerk to demonstrate that he is not currently licensed, the clerk must immediately issue a pick-up order. The pick-up order under this subsection may be issued by the clerk to any law enforcement officer to pick up the person's driver's license in accordance with G.S. 20-29 as if the pick-up order had been issued by the Division. A revocation under this subsection begins at the date specified in the order and continues until the person's license has been revoked for the period specified in this subsection and the person has paid the applicable costs. The period of revocation under this subsection is:

(1) Ten days from the time the person surrenders his license to the court, if the surrender occurs within five working days of the effective date of the order; or

(2) Ten days after the person appears before the clerk and demonstrates that he is not currently licensed to drive, if the appearance occurs within five working days of the effective date of the revocation order; or

(3) Thirty days from the time:

a. The person's driver's license is picked up by a law enforcement officer following service of a pick-up order; or

b. The person demonstrates to a law enforcement officer who has a pick-up order for his license that he is not currently licensed; or

c. The person's driver's license is surrendered to the court if the surrender occurs more than five working days after the effective date of the revocation order; or

d. The person appears before the clerk to demonstrate that he is not currently licensed, if he appears more than five working days after the effective date of the revocation order.

When a pick-up order is issued, it must inform the person of his right to a hearing as specified in subsection (g), and that the revocation remains in effect pending the hearing. An officer serving a pick-up order under this subsection must return the order to the court indicating the date it was served or that he

was unable to serve the order. If the license was surrendered, the officer serving the order must deposit it with the clerk within three days of the surrender.

(g) Hearing Before Magistrate or Judge if Person Contests Validity of Revocation. A person whose license is revoked under this section may request in writing a hearing to contest the validity of the revocation. The request may be made at the time of the person's initial appearance, or at any later time to the clerk or a magistrate designated by the clerk, and may specifically request that the hearing be conducted by a district court judge. The Administrative Office of the Courts must develop a hearing request form for any person requesting a hearing. Unless a district court judge is requested, the hearing must be conducted within the county by a magistrate assigned by the chief district judge to conduct such hearings. If the person requests that a district court judge hold the hearing, the hearing must be conducted within the judicial district by a district court judge assigned to conduct such hearings. The revocation remains in effect pending the hearing, but the hearing must be held within three working days following the request if the hearing is before a magistrate or within five working days if the hearing is before a district court judge. The request for the hearing must specify the grounds upon which the validity of the revocation is challenged. A witness may submit his evidence by affidavit unless he is subpoenaed to appear. Any person who appears and testifies is subject to questioning by the judicial official conducting the hearing, and the judicial official may adjourn the hearing to seek additional evidence if he is not satisfied with the accuracy or completeness of evidence. The person contesting the validity of the revocation may, but is not required to, testify in his own behalf. Unless contested by the person requesting the hearing, the judicial official may accept as true any matter stated in the revocation report. If any relevant condition under subsection (b) is contested, the judicial official must find by the greater weight of the evidence that the condition was met in order to sustain the revocation. At the conclusion of the hearing the judicial official must enter an order sustaining or rescinding the revocation. The judicial official's findings are without prejudice to the person contesting the revocation and to any other potential party as to any other proceedings, civil or criminal, that may involve facts bearing upon the conditions in subsection (b) considered by the judicial official. The decision of the judicial official is final and may not be appealed in the General Court of Justice. If the hearing is not held and completed within three working days of the written request for a hearing before a magistrate or within five working days of the written request for a hearing before a district court judge, the judicial official must enter an order rescinding the revocation, unless the person contesting the revocation contributed to the delay in completing the hearing.

(h) Return of License. After the applicable period of revocation under this section, or if the magistrate or judge orders the revocation rescinded, the person whose license was revoked may apply to the clerk for return of his surrendered license. Unless the clerk finds that the person is not eligible to use the surrendered license, he must return it if:

(1) The applicable period of revocation has passed and the person has tendered payment for the costs under subsection (j); or

(2) The magistrate or judge has ordered the revocation rescinded.

If the license has expired, he may return it to the person with a caution that it is no longer valid. Otherwise, if the person is not eligible to use the license and

the license was issued by the Division or in another state, the clerk must mail it to the Division. If the person has surrendered his copy of a limited driving privilege and he is no longer eligible to use it, the clerk must make a record that he has withheld the limited driving privilege and forward that record to the clerk in the county in which the limited driving privilege was issued for filing in the case file.

(i) Effect of Revocations. A revocation under this section revokes a person's privilege to drive in North Carolina whatever the source of his authorization to drive. Revocations under this section are independent of and run concurrently with any other revocations. No court imposing a period of revocation following conviction of an offense involving impaired driving may give credit for any period of revocation imposed under this section. A person is not eligible for a limited driving privilege under any statute while his license is revoked under this section.

(j) Costs. Unless the magistrate or judge orders the revocation rescinded, a person whose license is revoked under this section must pay a fee of twenty-five dollars ($25.00) as costs for the action before his license may be returned under subsection (h). The costs collected under this section go to the State.

(k) Report to Division. Except as provided below, the clerk must mail a report to the Division within 10 working days of the return of a license under this section or of the termination of a revocation of the driving privilege of a person not currently licensed. The report must identify the person whose license has been revoked and specify the dates on which his license was revoked. No report need be made to the Division, however, if there was a surrender of the driver's license issued by the Division, a ten-day minimum revocation was imposed, and the license was properly returned to the person under subsection (h) within five working days after the ten-day period had elapsed.

(l) Restoration Fee for Unlicensed Persons. If a person whose license is revoked under this section has no valid license, he must pay the restoration fee required by G.S. 20-7 before he may apply for a license from the Division.

(m) Modification of Revocation Order. Any judicial official presiding over a proceeding under this section may issue a modified order if he determines that an inappropriate order has been issued.

(n) Exception for Revoked Licenses. Notwithstanding any other provision of this section, if the judicial official required to issue a revocation order under this section determines that the person whose license is subject to revocation under subsection (b):

(1) Has a currently revoked driver's license;

(2) Has no limited driving privilege; and

(3) Will not become eligible for restoration of his license or for a limited driving privilege during the period of revocation required by this section,

the judicial official need not issue a revocation order under this section. In this event the judicial official must file in the records of the civil proceeding a copy of any documentary evidence and set out in writing all other evidence on which he relies in making his determination.

(o) Designation of Proceedings. Proceedings under this section are civil actions, and must be identified by the caption 'In the Matter of ____' and filed as directed by the Administrative Office of the Courts."

—REVOCATION FOR IMPAIRED DRIVING CONVICTION.

Sec. 15. G.S. 20-17(2) is rewritten to read as follows:

"(2) Impaired driving under G.S. 20-138.1."

—DMV PROCEDURE AFTER COURT-ORDERED REVOCATIONS.

Sec. 16. Chapter 20 of the General Statutes is amended to add a new G.S. 20-17.2 to read as follows:

"§ 20-17.2. *Court-ordered revocations for offenses involving impaired driving; procedure for notice.*—When a person convicted of an offense involving impaired driving is ordered by a court not to operate a motor vehicle for a specified period of time as a condition of probation, the Division, upon receiving a copy of the judgment, must revoke the person's driver's license for the period and dates specified in the order of the court. The entry of the probationary judgment by the court is notice to the person that his license is revoked, and the Division need not notify the person of his revocation. In judgment forms for use in impaired driving cases under G.S. 20-138.1 the Administrative Office of the Courts must provide for inclusion of a notice provision, when applicable, of the terms of this section."

—LENGTHS OF REVOCATIONS FOR IMPAIRED DRIVING.

Sec. 17. G.S. 20-19 is amended by repealing subsection (h), adding a new subsection (i), and rewriting subsections (c1), (d), and (e) to read as follows:

"(c1) When a license is revoked under subdivision (2) of G.S. 20-17, and the period of revocation is not determined by subsection (d) or (e) of this section, the period of revocation is one year.

(d) When a person's license is revoked under subdivision (2) of G.S. 20-17 and the person has another conviction of an offense involving impaired driving, occurring within the three years immediately preceding the date of the offense for which his license is being revoked, the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

(1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period.

(e) When a person's license is revoked under subdivision (2) of G.S. 20-17 and the person has two or more previous convictions of an offense involving impaired driving, and the most recent conviction occurred within the five years immediately preceding the date of the offense for which his license is being revoked, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol

beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to three years from the date of restoration.

(i) When a person's license is revoked under subdivision (1) or (9) of G.S. 20-17 and the offense is one involving impaired driving, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years in accordance with the procedure in subsection (e) of this section."

—REVOCATION FOR FEDERAL COURT CONVICTIONS.

Sec. 18. G.S. 20-23.2 is rewritten to read as follows:

"§ 20-23.2. *Suspension of license for conviction of offense involving impaired driving in federal court.*—Upon receipt of notice of conviction in any court of the federal government of an offense involving impaired driving, the Division is authorized to revoke the driving privilege of the person convicted in the same manner as if the conviction had occurred in a court of this State."

—CONVICTION DEFINED.

Sec. 19. G.S. 20-24, as it appears in the 1981 Cumulative Supplement to the 1978 Replacement Volume 1C of the General Statutes, is amended in subdivision (c)(1) by inserting "with a magistrate's order or" between "served" and "with" on line 7 of the subsection, and is further amended by adding a new subsection to read as follows:

"(e) When a court sends a report of a conviction of manslaughter to the Division, it must indicate on that report whether the manslaughter conviction is one involving impaired driving."

—CERTIFIED RECORDS BY P.I.N.

Sec. 20. G.S. 20-26(b) is amended by deleting the second sentence and inserting in its place the following sentences: "A certified copy of a driver's records kept pursuant to subsection (a) may be sent by the Police Information Network. In addition to the uses authorized by G.S. 8-35.1, a copy certified under the authority of this section is admissible as prima facie evidence of the status of the person's license."

—FORFEITURE OF VEHICLE.

Section 21. Chapter 20 of the General Statutes is amended by adding a new G.S. 20-28.2 to read:

"§ 20-28.2. *Forfeiture of motor vehicle for impaired driving after impaired driving license revocation.*—(a) Meaning of 'Impaired Driving License Revocation'. The revocation of a person's driver's license is an impaired driving license revocation if the revocation is pursuant to:

(1) G.S. 20-13.2, 20-16(a)(8b), 20-16.2, 20-16.4, 20-16.5, 20-17(2), or 20-17.2; or

(2) G.S. 20-16(7), 20-17(1), or 20-17(9), if the offense involves impaired driving.

(b) When Motor Vehicle Becomes Property Subject to Forfeiture. If at a sentencing hearing conducted pursuant to G.S. 20-179 the judge determines that the grossly aggravating factor described in G.S. 20-179(c)(2) applies, the motor vehicle that was driven by the defendant at the time he committed the offense of impaired driving becomes property subject to forfeiture.

(c) Duty of Prosecutor To Notify Possible Innocent Parties. In any case in which a prosecutor determines that a motor vehicle driven by a defendant may be subject to forfeiture under this section, the prosecutor must determine the identity of the vehicle owner as shown on the certificate of title for the vehicle and he must also determine if there are any security interests noted on the vehicle's certificate of title. The State must notify the holder of each security interest that the vehicle may be subject to forfeiture and that he may intervene to protect his interest. If the defendant is not the owner, a similar notice must be served on the owner. The notice may be served by any means reasonably likely to provide actual notice, and must be served at least fourteen days before the forfeiture hearing.

(d) Duty of Judge. The judge at sentencing must hold a hearing to determine if the vehicle should be forfeited. At the hearing the judge may order the forfeiture if he finds that:

(1) The vehicle is subject to forfeiture;

(2) The vehicle is not primarily used by a member of the defendant's family or household for a business purpose or for driving to and from work or school;

(3) All potential innocent parties have been notified as required in subsection (c); and

(4) No party has shown that he is an innocent party as described in subsection (f).

If the owner or the holder of a security interest has not been notified, the judge may continue the hearing to allow the State to serve the notice or he may decline to order forfeiture. In any case in which a judge does not order the forfeiture of a vehicle subject to forfeiture, he must enter into the record detailed, written reasons for his decision.

(e) Sale of Forfeited Vehicle Required. If the judge orders forfeiture of the vehicle pursuant to this section, he must order the sale of the vehicle. Proceeds of the sale must be paid to the school fund of the county in which the property was seized.

(f) Innocent Party May Intervene. At any time before the forfeiture is ordered, the property owner or holder of a security interest, other than the defendant, may apply to protect his interest in the motor vehicle. The application may be made to a judge who has jurisdiction to try the impaired driving offense with which the motor vehicle is associated. The judge must order the vehicle returned to the owner if he finds that either the owner or the holder of a security interest is an innocent party. An owner or holder of a security interest is an innocent party if he:

(1) Did not know and had no reason to know that the defendant's driver's license was revoked; or

(2) Knew that the defendant's driver's license was revoked, but the defendant drove the vehicle without his consent.

If an innocent party applies after the forfeited motor vehicle has been sold and the judge finds no laches in the innocent party's delay, the judge may order a payment to the innocent party from the net proceeds of the sale equal to his equity or security interest in the vehicle."

—IMPAIRED DRIVING CHECKS.

Sec. 22. Chapter 20 of the General Statutes is amended by adding a new G.S. 20-16.3A to read as follows:

"§ 20-16.3A. *Impaired driving checks.*—A law enforcement agency may make impaired driving checks of drivers of vehicles on highways and public vehicular areas if the agency:

(1) Develops a systematic plan in advance that takes into account the likelihood of detecting impaired drivers, traffic conditions, number of vehicles to be stopped, and the convenience of the motoring public.

(2) Designates in advance the pattern both for stopping vehicles and for requesting drivers that are stopped to submit to alcohol screening tests. The plan may include contingency provisions for altering either pattern if actual traffic conditions are different from those anticipated, but no individual officer may be given discretion as to which vehicle is stopped or, of the vehicles stopped, which driver is requested to submit to an alcohol screening test.

(3) Marks the area in which checks are conducted to advise the public that an authorized impaired driving check is being made.

This section does not prevent an officer from using the authority of G.S. 20-16.3 to request a screening test if, in the course of dealing with a driver under the authority of this section, he develops grounds for requesting such a test under G.S. 20-16.3. Alcohol screening tests and the results from them are subject to the provisions of subsections (b), (c), and (d) of G.S. 20-16.3. This section does not limit the authority of a law enforcement officer or agency to conduct a license check independently or in conjunction with the impaired driving check, to administer psychophysical tests to screen for impairment, or to utilize roadblocks or other types of vehicle checks or checkpoints that are consistent with the laws of this State and the Constitution of North Carolina and of the United States."

—REPEAL OF PRESENT OFFENSES.

Sec. 23. G.S. 20-138, 20-139, 20-140(c), and 20-140(e) are repealed.

—IMPAIRED DRIVING OFFENSE DEFINED.

Sec. 24. Chapter 20 of the General Statutes is amended by noting that G.S. 20-138.2 is reserved for future codification purposes and by adding a new G.S. 20-138.1 to read as follows:

"§ 20-138.1. *Impaired driving.*—(a) Offense. A person commits the offense of impaired driving if he drives any vehicle upon any highway, any street, or any public vehicular area within this State:

(1) While under the influence of an impairing substance; or

(2) After having consumed sufficient alcohol that he has, at any relevant time after the driving, an alcohol concentration of 0.10 or more.

(b) Defense Precluded. The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense to a charge under this section.

(c) Pleading. In any prosecution for impaired driving, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that the defendant drove a vehicle on a highway or public vehicular area while subject to an impairing substance.

(d) Sentencing Hearing and Punishment. Impaired driving as defined in this section is a misdemeanor. Upon conviction of a defendant of impaired driving,

the presiding judge must hold a sentencing hearing and impose punishment in accordance with G.S. 20-179."

—PROSECUTOR DISCLOSURE REQUIREMENTS.

Sec. 25. Chapter 20 of the General Statutes is amended by adding a new section, G.S. 20-138.4, to read as follows:

"§ 20-138.4. *Requirement that prosecutor explain reduction or dismissal of charge involving impaired driving.*—Any prosecutor must enter detailed facts in the record of any case involving impaired driving explaining the reasons for his action if he:

(1) Enters a voluntary dismissal; or

(2) Accepts a plea of guilty or no contest to a lesser included offense; or

(3) Substitutes another charge, by statement of charges or otherwise, if the substitute charge carries a lesser mandatory minimum punishment or is not an offense involving impaired driving; or

(4) Otherwise takes a discretionary action that effectively dismisses or reduces the original charge in the case involving impaired driving.

General explanations such as 'interests of justice' or 'insufficient evidence' are not sufficiently detailed to meet the requirements of this section."

—CHEMICAL TESTING PROCEDURES.

Sec. 26. G.S. 20-139.1 is rewritten to read as follows:

"§ 20-139.1. *Procedures governing chemical analyses; admissibility; evidentiary provisions; controlled-drinking programs.*—(a) Chemical Analysis Admissible. In any implied-consent offense under G.S. 20-16.2, a person's alcohol concentration as shown by a chemical analysis is admissible in evidence. This section does not limit the introduction of other competent evidence as to a defendant's alcohol concentration, including other chemical tests.

(b) Approval of Valid Test Methods; Licensing Chemical Analysts. A chemical analysis, to be valid, must be performed in accordance with the provisions of this section. The chemical analysis must be performed according to methods approved by the Commission for Health Services by an individual possessing a current permit issued by the Department of Human Resources for that type of chemical analysis. The Commission for Health Services is authorized to adopt regulations approving satisfactory methods or techniques for performing chemical analyses, and the Department of Human Resources is authorized to ascertain the qualifications and competence of individuals to conduct particular chemical analyses. The Department may issue permits to conduct chemical analyses to individuals it finds qualified subject to periodic renewal, termination, and revocation of the permit in the Department's discretion.

(b1) Arresting or Charging Officer May Not Perform Chemical Analysis. A chemical analysis is not valid in any case in which it is performed by an arresting officer or by a charging officer under the terms of G.S. 20-16.2.

(b2) Breath Analysis Results Inadmissible if Preventive Maintenance Not Performed. Notwithstanding the provisions of subsection (b), the results of a chemical analysis of a person's breath performed in accordance with this section are not admissible in evidence if:

(1) The defendant objects to the introduction into evidence of the results of the chemical analysis of his breath; and

(2) The defendant demonstrates that, with respect to the instrument used to analyse his breath, preventive maintenance procedures required by

the regulations of the Commission for Health Services had not been performed within the time limits prescribed by those regulations.

(b3) Sequential Breath Tests Required. By January 1, 1985, the regulations of the Commission for Health Services governing the administration of chemical analyses of the breath must require the testing of at least duplicate sequential breath samples. Those regulations must provide:

(1) A specification as to the minimum observation period before collection of the first breath sample and the time requirements as to collection of second and subsequent samples.

(2) That the test results may only be used to prove a person's particular alcohol concentration if:

a. The pair of readings employed are from consecutively administered tests; and

b. The readings do not differ from each other by an alcohol concentration greater than 0.02.

(3) That when a pair of analyses meets the requirements of subdivision (2), only the lower of the two readings may be used by the State as proof of a person's alcohol concentration in any court or administrative proceeding.

A person's willful refusal to give the sequential breath samples necessary to constitute a valid chemical analysis is a willful refusal under G.S. 20-16.2(c).

(c) Withdrawal of Blood for Chemical Analysis. When a blood test is specified as the type of chemical analysis by the charging officer, only a physician, registered nurse, or other qualified person may withdraw the blood sample. If the person withdrawing the blood requests written confirmation of the charging officer's request for the withdrawal of blood, the officer must furnish it before blood is withdrawn. When blood is withdrawn pursuant to a charging officer's request, neither the person withdrawing the blood nor any hospital, laboratory, or other institution, person, firm, or corporation employing him, or contracting for the service of withdrawing blood, may be held criminally or civilly liable by reason of withdrawing that blood, except that there is no immunity from liability for negligent acts or omissions.

(d) Right to Additional Test. A person who submits to a chemical analysis may have a qualified person of his own choosing administer an additional chemical test or tests, or have a qualified person withdraw a blood sample for later chemical testing by a qualified person of his own choosing. Any law enforcement officer having in his charge any person who has submitted to a chemical analysis must assist the person in contacting someone to administer the additional testing or to withdraw blood, and must allow access to the person for that purpose. The failure or inability of the person who submitted to a chemical analysis to obtain any additional test or to withdraw blood does not preclude the admission of evidence relating to the chemical analysis.

(e) Recording Results of Chemical Analysis of Breath. The chemical analyst who administers a test of a person's breath must record the following information after making any chemical analysis:

(1) The alcohol concentration or concentrations revealed by the chemical analysis.

(2) The time of the collection of the breath sample or samples used in the chemical analysis.

A copy of the record of this information must be furnished to the person submitting to the chemical analysis, or to his attorney, before any trial or proceeding in which the results of the chemical analysis may be used.

(e1) Use of Chemical Analyst's Affidavit in District Court. An affidavit by a chemical analyst sworn to and properly executed before an official authorized to administer oaths is admissible in evidence without further authentication in any hearing or trial in the District Court Division of the General Court of Justice with respect to the following matters:

(1) The alcohol concentration or concentrations of a person given a chemical analysis and who is involved in the hearing or trial.

(2) The time of the collection of the blood or breath sample or samples for the chemical analysis.

(3) The type of chemical analysis administered and the procedures followed.

(4) The type and status of any permit issued by the Department of Human Resources that he held on the date he performed the chemical analysis in question.

(5) If the chemical analysis is performed on a breath-testing instrument for which regulations adopted pursuant to subsection (b) require preventive maintenance, the date the most recent preventive maintenance procedures were performed on the breath-testing instrument used, as shown on the maintenance records for that instrument.

The Department of Human Resources must develop a form for use by chemical analysts in making this affidavit. If any person who submitted to a chemical analysis desires that a chemical analyst personally testify in the hearing or trial in the District Court Division, he may subpoena the chemical analyst and examine him as if he were an adverse witness.

(f) Evidence of Refusal Admissible. If any person charged with an implied-consent offense refuses to submit to a chemical analysis, evidence of that refusal is admissible in any criminal action against him for an implied-consent offense under G.S. 20-16.2.

(g) Controlled-Drinking Programs. The Department of Human Resources is empowered to make regulations concerning the ingestion of controlled amounts of alcohol by individuals submitting to chemical testing as a part of scientific, experimental, educational, or demonstration programs. These regulations must prescribe procedures consistent with controlling federal law governing the acquisition, transportation, possession, storage, administration, and disposition of alcohol intended for use in the programs. Any person in charge of a controlled-drinking program who acquires alcohol under these regulations must keep records accounting for the disposition of all alcohol acquired, and the records must at all reasonable times be available for inspection upon the request of any federal, State, or local law enforcement officer with jurisdiction over the laws relating to control of alcohol. A controlled-drinking program exclusively using lawfully purchased alcoholic beverages in places in which they may be lawfully possessed, however, need not comply with the record-keeping requirements of the regulations authorized by this subsection. All acts pursuant to the regulations reasonably done in furtherance of bona fide objectives of a controlled-drinking program authorized by the regulations are lawful notwithstanding the provisions of any other general or local statute, regulation, or ordinance controlling alcohol."

—FELONY AND MISDEMEANOR DEATH BY VEHICLE.

Sec. 27. G.S. 20-141.4 is rewritten to read as follows:

"§ 20-141.4. *Felony and misdemeanor death by vehicle.*—(a). (Repealed.)

(a1) Felony Death by Vehicle. A person commits the offense of felony death by vehicle if he unintentionally causes the death of another person while engaged in the offense of impaired driving under G.S. 20-138.1 and commission of that offense is the proximate cause of the death.

(a2) Misdemeanor Death by Vehicle. A person commits the offense of misdemeanor death by vehicle if he unintentionally causes the death of another person while engaged in the violation of any State law or local ordinance applying to the operation or use of a vehicle or to the regulation of traffic, other than impaired driving under G.S. 20-138.1, and commission of that violation is the proximate cause of the death.

(b) Punishments. Felony death by vehicle is a Class I felony. Misdemeanor death by vehicle is a misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than two years, or both, in the discretion of the court.

(c) No Double Prosecutions. No person who has been placed in jeopardy upon a charge of death by vehicle may be prosecuted for the offense of mansalughter arising out of the same death; and no person who has been placed in jeopardy upon a charge of manslaughter may be prosecuted for death by vehicle arising out of the same death."

—IMPAIRED DRIVING APPLICABLE TO ROAD CONSTRUCTION VEHICLES.

Sec. 28. The numbered subdivisions of G.S. 20-168(b) are rewritten to read as follows:

"(1) G.S. 20-138.1. Impaired driving.

(2) (Repealed.)

(3) G.S. 20-139.1. Procedures governing chemical analyses; admissibility; evidentiary provisions; controlled-drinking programs.

(4) G.S. 20-140. Reckless driving.

(5) (Repealed.)

(6) G.S. 20-141. Speed restrictions.

(7) G.S. 20-141.3. Unlawful racing on streets and highways.

(8) G.S. 20-141.4. Felony and misdemeanor death by vehicle."

—SENTENCING PROCEDURES AND PUNISHMENT FOR IMPAIRED DRIVING OFFENSES.

Sec. 29. G.S. 20-179 and G.S. 20-179.1 are rewritten to read as follows:

"§ 20-179. *Sentencing hearing after conviction for impaired driving; determination of grossly aggravating and aggravating and mitigating factors; punishments.*—(a) Sentencing Hearing Required. After a conviction for impaired driving under G.S. 20-138.1, the judge must hold a sentencing hearing to determine whether there are aggravating or mitigating factors that affect the sentence to be imposed. Before the hearing the prosecutor must make all feasible efforts to secure the defendant's full record of traffic convictions, and must present to the judge that record for consideration in the hearing. Upon request of the defendant, the prosecutor must furnish the defendant or his attorney a copy of the defendant's record of traffic convictions at a reasonable time prior to the introduction of the record into evidence. In addition, the prosecutor must present all other appropriate grossly aggravating and

aggravating factors of which he is aware, and the defendant or his attorney may present all appropriate mitigating factors. In every instance in which a valid chemical analysis is made of the defendant, the prosecutor must present evidence of the resulting alcohol concentration.

(b) (Repealed.)

(c) Determining Existence of Grossly Aggravating Factors. At the sentencing hearing, based upon the evidence presented at trial and in the hearing, the judge must first determine whether there are any grossly aggravating factors in the case. If the defendant has been convicted of two or more prior offenses involving impaired driving, if the convictions occurred within seven years of the date of the offense for which he is being sentenced, the judge must impose the Level One punishment under subsection (g). The judge must also impose the Level One punishment if he determines that two or more of the following grossly aggravating factors apply:

(1) A single conviction for an offense involving impaired driving, if the conviction occurred within seven years of the date of the offense for which the defendant is being sentenced.

(2) Driving by the defendant while his driver's license was revoked under G.S. 20-28, and the revocation was an impaired driving revocation under G.S. 20-28.2(a).

(3) Serious injury to another person caused by the defendant's impaired driving.

If the judge determines that only one of the above grossly aggravating factors applies, he must impose the Level Two punishment under subsection (h). In imposing a Level One or Two punishment, the judge may consider the aggravating and mitigating factors in subsections (d) and (e) in determining the appropriate sentence. If there are no grossly aggravating factors in the case, the judge must weigh all aggravating and mitigating factors and impose punishment as required by subsection (f).

(d) Aggravating Factors To Be Weighed. The judge must determine before sentencing under subsection (f) whether any of the aggravating factors listed below apply to the defendant. The judge must weigh the seriousness of each aggravating factor in the light of the particular circumstances of the case. The factors are:

(1) Gross impairment of the defendant's faculties while driving or an alcohol concentration of 0.20 or more within a relevant time after the driving.

(2) Especially reckless or dangerous driving.

(3) Negligent driving that led to an accident causing property damage in excess of five hundred dollars ($500.00) or personal injury.

(4) Driving by the defendant while his driver's license was revoked.

(5) Two or more prior convictions of a motor vehicle offense not involving impaired driving for which at least three points are assigned under G.S. 20-16 or for which the convicted person's license is subject to revocation, if the convictions occurred within five years of the date of the offense for which the defendant is being sentenced, or one or more prior convictions of an offense involving impaired driving that occurred more than seven years before the date of the offense for which the defendant is being sentenced.

(6) Conviction under G.S. 20-141(j) of speeding by the defendant while fleeing or attempting to elude apprehension, if the offense occurred during the same act or transaction as the impaired driving offense.

(7) Conviction under G.S. 20-141 of speeding by the defendant by at least 30 miles per hour over the legal limit, if the offense occurred during the same act or transaction as the impaired driving offense.

(8) Passing a stopped school bus in violation of G.S. 20-217.

(9) Any other factor that aggravates the seriousness of the offense.

(e) Mitigating Factors To Be Weighed. The judge must also determine before sentencing under subsection (f) whether any of the mitigating factors listed below apply to the defendant. The judge must weigh the degree of mitigation of each factor in light of the particular circumstances of the case. The factors are:

(1) Slight impairment of the defendant's faculties resulting solely from alcohol, and an alcohol concentration that did not exceed 0.11 at any relevant time after the driving.

(2) Slight impairment of the defendant's faculties, resulting solely from alcohol, with no chemical analysis having been available to the defendant.

(3) Driving at the time of the offense that was safe and lawful except for the impairment of the defendant's faculties.

(4) A safe driving record, with the defendant's having no conviction for any serious traffic violation within five years of the date of the offense for which the defendant is being sentenced.

(5) Impairment of the defendant's faculties caused primarily by a lawfully prescribed drug for an existing medical condition, and the amount of the drug taken was within the prescribed dosage.

(6) The defendant's voluntary submission to a mental health facility for assessment after he was charged with impaired driving, and, if recommended by the facility, his voluntary participation in the recommended treatment.

(7) Any other factor that mitigates the seriousness of the offense.

(f) Weighing the Aggravating and Mitigating Factors. If the judge in the sentencing hearing determines that there are no grossly aggravating factors, he must weigh all aggravating and mitigating factors listed in subsections (d) and (e). If the judge determines that:

(1) The aggravating factors substantially outweigh any mitigating factors, he must note in the judgment the factors found and his finding that the defendant is subject to the Level Three punishment and impose a punishment within the limits defined in subsection (i).

(2) There are no aggravating and mitigating factors, or that aggravating factors are substantially counterbalanced by mitigating factors, he must note in the judgment any factors found and his finding that the defendant is subject to the Level Four punishment and impose a punishment within the limits defined in subsection (j).

(3) The mitigating factors substantially outweigh any aggravating factors, he must note in the judgment the factors found and his finding that the defendant is subject to the Level Five punishment and impose a punishment within the limits defined in subsection (k).

It is not a mitigating factor that the driver of the vehicle was suffering from alcoholism, drug addiction, diminished capacity, or mental disease or defect.

Evidence of these matters may be received in the sentencing hearing, however, for use by the judge in formulating terms and conditions of sentence after determining which punishment level must be imposed.

(g) Level One Punishment. A defendant subject to Level One punishment may be fined up to two thousand dollars ($2,000) and must be sentenced to a term of imprisonment of not less than 14 days and not more than 24 months. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 14 days. If the defendant is placed on probation, the judge must, if required by subsections (l) or (m), impose the conditions relating to treatment and education described in those subsections. The judge may impose any other lawful condition of probation. If the judge does not place on probation a defendant who is otherwise subject to the mandatory assessment and treatment provisions of subsection (m), he must include in the record of the case his reasons for not doing so.

(h) Level Two Punishment. A defendant subject to Level Two punishment may be fined up to one thousand dollars ($1,000) and must be sentenced to a term of imprisonment of not less than seven days and not more than 12 months. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least seven days. If the defendant is placed on probation, the judge must, if required by subsections (l) or (m), impose the conditions relating to treatment and education described in those subsections. The judge may impose any other lawful condition of probation. If the judge does not place on probation a defendant who is otherwise subject to the mandatory assessment and treatment provisions of subsection (m), he must include in the record of the case his reasons for not doing so.

(i) Level Three Punishment. A defendant subject to Level Three punishment may be fined up to five hundred dollars ($500.00) and must be sentenced to a term of imprisonment of not less than 72 hours and not more than six months. The term of imprisonment must be suspended, on the condition that the defendant:

(1) Be imprisoned for a term of at least 72 hours as a condition of special probation; or

(2) Perform community service for a term of at least 72 hours; or

(3) Not operate a motor vehicle for a term of at least 90 days; or

(4) Any combination of these conditions.

The judge in his discretion may impose any other lawful condition of probation and, if required by subsections (l) or (m), must impose the conditions relating to treatment and education described in those subsections. This subsection does not affect the right of a defendant to elect to serve the suspended sentence of imprisonment as provided in G.S. 15A-1341(c).

(j) Level Four Punishment. A defendant subject to Level Four punishment may be fined up to two hundred fifty dollars ($250.00) and must be sentenced to a term of imprisonment of not less than 48 hours and not more than 120 days. The term of imprisonment must be suspended, on the condition that the defendant:

(1) Be imprisoned for a term of 48 hours as a condition of special probation; or

(2) Perform community service for a term of 48 hours; or

(3) Not operate a motor vehicle for a term of 60 days; or

(4) Any combination of these conditions.

The judge in his discretion may impose any other lawful condition of probation and, if required by subsections (l) or (m), must impose the conditions relating to treatment and education described in those subsections. This subsection does not affect the right of a defendant to elect to serve the suspended sentence of imprisonment as provided in G.S. 15A-1341(c).

(k) Level Five Punishment. A defendant subject to Level Five punishment may be fined up to one hundred dollars ($100.00) and must be sentenced to a term of imprisonment of not less than 24 hours and not more than 60 days. The term of imprisonment must be suspended, on the condition that the defendant:

(1) Be imprisoned for a term of 24 hours as a condition of special probation; or

(2) Perform community service for a term of 24 hours; or

(3) Not operate a motor vehicle for a term of 30 days; or

(4) Any combination of these conditions.

The judge may in his discretion impose any other lawful condition of probation and, if required subsections (l) or (m), must impose the conditions relating to treatment and education described in those subsections. This subsection does not affect the right of a defendant to elect to serve the suspended sentence of imprisonment as provided in G.S. 15A-1341(c).

(l) Education Required in Certain Cases. If a defendant being sentenced under this section is placed on probation, he must be required as a condition of that probation to complete the course of instruction sucessfully at an Alcohol and Drug Education Traffic School established pursuant to G.S. 20-179.2 within 90 days of the date of conviction unless:

(1) He has previously been assigned to an Alcohol and Drug Education Traffic School and has successfully completed the course of instruction; or

(2) The judge finds that the defendant will not benefit from the course of instruction because of specific, extenuating circumstances.

(m) Assessment and Treatment Required in Certain Cases. If a defendant being sentenced under this section is placed on probation, he must be required as a condition of that probation to obtain a substance abuse assessment if:

(1) He had an alcohol concentration of 0.20 or more as indicated by a chemical analysis taken when he was charged; or

(2) He has a prior conviction for an offense involving impaired driving within the five years preceding the date of the offense for which he is being sentenced and, when he was charged with the current offense, he either:

a. Had an alcohol concentration of 0.10 or more; or

b. Willfully refused to submit to a chemical analysis.

The judge must require the defendant to obtain the assessment from an area mental health agency, its designated agent, or a private facility licensed by the State for the treatment of alcoholism and substance abuse. In addition, he must require the defendant to participate in a treatment program if recommended by the assessing agency, and he must require the defendant to execute a Release of Information authorizing the treatment agency to report his progress to the court or the Division of Adult Probation and Parole. The judge may order the defendant to participate in an appropriate treatment program at the time he is

ordered to obtain an assessment, or he may order him to reappear in court when the assessment is completed to determine if a condition of probation requiring participation in treatment should be imposed. The judge must require the defendant to pay twenty-five dollars ($25.00) for the services of the assessment facility and the treatment fees that may be charged by the treatment facility. If the defendant is treated by an area mental health facility, G.S. 122-35.47 applies. Any determinations with regard to the defendant's ability to pay the assessment fee must be made by the judge. In those cases in which no substance abuse handicap is identified, that finding must be forwarded in writing to the court. When treatment is required, the treatment agency's progress reports must be filed with the court or the Division of Adult Probation and Parole at intervals of no greater than six months until the termination of probation or the treatment agency determines and reports that no further treatment is appropriate.

(n) Time Limits for Performance of Community Service. If the judgment requires the defendant to perform a specified number of hours of community service as provided in subsections (i), (j), or (k), the community service must be completed:

(1) Within 90 days, if the amount of community service required is 72 hours or more; or

(2) Within 60 days, if the amount of community service required is 48 hours; or

(3) Within 30 days, if the amount of community service required is 24 hours.

The court may extend these time limits upon motion of the defendant if it finds that the defendant has made a good faith effort to comply with the time limits specified in this subsection. Failure to complete the community service requirement within the applicable time limits is a violation of the defendant's probation and, in addition, is a ground for revocation of any limited driving privilege held by the defendant for the impaired driving offense.

(o) Evidentiary Standards; Proof of Prior Convictions. In the sentencing hearing, the State must prove any grossly aggravating or aggravating factor by the greater weight of the evidence, and the defendant must prove any mitigating factor by the greater weight of the evidence. Evidence adduced by either party at trial may be utilized in the sentencing hearing. Except as modified by this section, the procedure in G.S. 15A-1334(b) governs. The judge may accept any evidence as to the presence or absence of previous convictions that he finds reliable but he must give *prima facie* effect to convictions recorded by the Division or any other agency of the State of North Carolina. A copy of such conviction records transmitted by the police information network in general accordance with the procedure authorized by G.S. 20-26(b) is admissible in evidence without further authentication. If the judge decides to impose an active sentence of imprisonment that would not have been imposed but for a prior conviction of an offense, the judge must afford the defendant an opportunity to introduce evidence that the prior conviction had been obtained in a case in which he was indigent, had no counsel, and had not waived his right to counsel. If the defendant proves by the preponderance of the evidence all three above facts concerning the prior case, that conviction may not be used as the basis for imposing an active sentence of imprisonment.

(p) Limit on Ameliorations of Punishment. With respect to the period of any minimum active term of imprisonment or minimum or specific term of imprisonment as a condition of special probation under this section:

(1) The judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial.

(2) No good time or gain time may be credited to reduce the minimum or specified term of imprisonment.

(3) The defendant may not be released on parole.

(q) Meaning of 'Conviction'. For the purposes of this Article, 'conviction' includes a guilty verdict, guilty plea, plea of no contest, or anything that would be treated as a conviction under G.S. 20-24(c).

"§ 20-179.1. *Presentence investigation of persons convicted of offense involving impaired driving.*—When a person has been convicted of an offense involving impaired driving, the trial judge may request a presentence investigation to determine whether the person convicted would benefit from treatment for habitual use of alcohol or drugs. If the person convicted objects, no presentence investigation may be ordered, but the judge retains his power to order suitable treatment as a condition of probation, and must do so when required by statute."

—ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOLS.

Sec. 30. G.S. 20-179.2 is amended by repealing subsection (b) and by designating the present subdivisions (a)(1), (a)(2), (a)(3), and (a)(4) as subsections (c), (d), (e), and (f), respectively. That section is further amended by deleting the fourth sentence of the present subdivision (a)(1) (redesignated as subsection (c)) and inserting in its place the following sentence:

"The fee must be paid in full within two weeks from the date school attendance is ordered as a condition of probation, unless the court, upon a showing of hardship by the person, allows the person additional time to pay the fee."

—LIMITED DRIVING PRIVILEGE.

Sec. 31. Chapter 20 of the General Statutes is amended by adding a new G.S. 20-179.3 to read as follows:

"§ 20-179.3. *Limited driving privilege.*—(a) Definition of Limited Driving Privilege. A limited driving privilege is a judgment issued in the discretion of a court for good cause shown authorizing a person with a revoked driver's license to drive for essential purposes related to any of the following:

(1) His employment.

(2) The maintenance of his household.

(3) His education.

(4) His court-ordered treatment or assessment.

(5) Community service ordered as a condition of the person's probation.

(6) Emergency medical care.

(b) Eligibility. A person convicted of the offense of impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if:

(1) At the time of the offense he held a valid driver's license;

(2) At the time of the offense he had not within the preceding 10 years been convicted of an offense involving impaired driving;

(3) Punishment Level Three, Four, or Five was imposed for the offense of impaired driving; and

(4) Subsequent to the offense he has not been convicted of, or had an unresolved charge lodged against him for, an offense involving impaired driving.

A person whose North Carolina driver's license is revoked because of a conviction in another jurisdiction substantially equivalent to impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if he would be eligible for it had the conviction occurred in North Carolina. Eligibility for a limited driving privilege following a revocation under G.S. 20-16.2(d) is governed by G.S. 20-16.2(e1).

(c) Privilege Not Effective Until After Compliance With Court-Ordered Revocation. A person convicted of an impaired driving offense may apply for a limited driving privilege at the time the judgment is entered. If the judgment does not require the person to complete a period of nonoperation pursuant to G.S. 20-179, the privilege may be issued at the time the judgment is issued. If the judgment requires the person to complete a period of nonoperation pursuant to G.S. 20-179, the limited driving privilege may not be effective until the person successfully completes that period of nonoperation. A person whose license is revoked because of a conviction in another jurisdiction substantially equivalent to impaired driving under G.S. 20-138.1 may apply for a limited driving privilege only after having completed at least 60 days of a court-imposed term of nonoperation of a motor vehicle, if the court in the other jurisdiction imposed such a term of nonoperation.

(d) Application for and Scheduling of Subsequent Hearing. The application for a limited driving privilege made subsequent to sentencing must be filed with the clerk in duplicate, and no hearing scheduled may be held until a reasonable time after the clerk files a copy of the application with the district attorney's office. The hearing must be scheduled before:

(1) The presiding judge at the applicant's trial if that judge is assigned to a court in the judicial district in which the conviction for impaired driving was imposed.

(2) The senior regular resident superior court judge of the district in which the conviction for impaired driving was imposed, if the presiding judge is not available within the district and the conviction was imposed in superior court.

(3) The chief district court judge of the district in which the conviction for impaired driving was imposed, if the presiding judge is not available within the district and the conviction was imposed in district court.

If the applicant was convicted of an offense in another jurisdiction, the hearing must be scheduled before the chief district court judge of the district in which he resides. G.S. 20-16.2(e1) governs the judge before whom a hearing is scheduled if the revocation was under G.S. 20-16.2(d). The hearing may be scheduled in any county within the judicial district.

(e) Limited Basis for and Effect of Privilege. A limited driving privilege issued under this section authorizes a person to drive if his license is revoked solely under G.S. 20-17(2) or as a result of a conviction in another jurisdiction substantially equivalent to impaired driving under G.S. 20-138.1; if the person's license is revoked under any other statute, the limited driving privilege is invalid.

(f) Overall Restriction on Use of Privilege. In addition to specific restrictions that must be imposed under subsection (g), a limited driving privilege must

restrict the applicant to essential driving related to the purposes listed in subsection (a). Driving related to emergency medical care is authorized at any time, but any other driving is unlawful unless it is for a purpose listed in subsection (a) and is within the times and at a place authorized under the subsection (g).

(g) Specific Restrictions on Driving Required to Be Stated. Under this section, 'standard working hours' are 6:00 a.m. to 8:00 p.m. on Monday through Friday. If the applicant is not required to drive for essential work-related purposes except during standard working hours, the judge in the limited driving privilege:

(1) Must prohibit driving during nonstandard working hours except for essential driving related to emergency medical care and specified essential driving for the applicant's education or court-ordered assessment, treatment, or community service; and

(2) May state other information and restrictions applicable to work-related driving during standard working hours.

The judge in the limited driving privilege may not allow the applicant to drive for maintenance of his household except during standard working hours, and the judge may impose any additional restrictions on such driving. If the applicant is required to drive for essential work-related purposes during nonstandard working hours, he must present documentation of that fact to the court before the judge may authorize him to drive during nonstandard working hours. If this authorization is granted, the limited driving privilege must contain the exact times and routes in which the holder will be driving to work or as a condition of employment, and restrict driving to those times and routes. The judge may also impose other restrictions, including a specification as to the vehicle to be driven. The judge must give the name and location of the place of work and may include any other information as to residence and essential driving needs that may assist law enforcement officers inspecting the limited driving privilege. If the applicant seeks permission to drive to and from court-ordered assessment, treatment, or community service or an educational program, including an Alcohol and Drug Education Traffic School, the judge must find that the applicant has no reasonable alternative to his driving. If the judge makes such a finding, he may authorize driving for that purpose, but if the driving will occur during nonstandard working hours, the judge must state the same information and restrictions applicable to work-related driving during those hours.

(h) Other Mandatory and Permissive Conditions or Restrictions. In all limited driving privileges the judge must also include a restriction that the applicant not consume alcohol while driving or drive at any time while he has remaining in his body any alcohol or in his blood a controlled substance previously consumed, unless the controlled substance was lawfully obtained and taken in therapeutically appropriate amounts. The judge may impose any other reasonable restrictions or conditions necessary to achieve the purposes of this section.

(i) Modification or Revocation of Privilege. A judge who issues a limited driving privilege is authorized to modify or revoke the limited driving privilege upon a showing that the circumstances have changed sufficiently to justify modification or revocation. If the judge who issued the limited driving privilege is not available, a judge authorized to issue a limited driving privilege under

subsection (d) may modify or revoke a limited driving privilege in accordance with this subsection. The judge must indicate in the order of modification or revocation the reasons for the order, or he must make specific findings indicating the reason for the order and those findings must be entered in the record of the case.

(j) Effect of Violation of Restriction. A holder of a limited driving privilege who violates any of its restrictions commits the offense of driving while his license is revoked under G.S. 20-28(a) and is subject to punishment and license revocation as provided in that section. If a law enforcement officer has reasonable grounds to believe that the holder of a limited driving privilege has consumed alcohol while driving or has driven while he has remaining in his body any alcohol previously consumed, the suspected offense of driving while license is revoked is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2. If a holder of a limited driving privilege is charged with violating a restriction contained in his limited driving privilege, and a judicial official determines that there is probable cause for the charge, the limited driving privilege is suspended pending the resolution of the case, and the judicial official must require the holder to surrender the limited driving privilege. The judicial official must also notify the holder that he is not entitled to drive until his case is resolved.

(k) Copy of Limited Driving Privilege to Division; Action Taken if Privilege Invalid. The clerk of court must send a copy of any limited driving privilege issued in the county to the Division. A limited driving privilege that is not authorized by this section, G.S. 20-16.2(e1), or G.S. 20-16.1, or that does not contain the limitations required by law, is invalid. If the limited driving privilege is invalid on its face, the Division must immediately notify the court and the holder of the privilege that it considers the privilege void and that the Division records will not indicate that the holder has a limited driving privilege."

PART II. PROTECTION OF YOUTHFUL DRIVERS.

—RAISING BEER PURCHASE AGE.

Sec. 32. G.S. 18B-300(a), 18B-302(a)(1), 18B-900(a)(1), and 18B-900(d) are amended by deleting the number "18" wherever it appears in those subsections and inserting in its place the number "19".

—GROUNDS FOR REVOKING PROVISIONAL LICENSE.

Sec. 33. Chapter 20 of the General Statutes is amended to add a new G.S. 20-13.2 to read as follows:

"§ 20-13.2. *Grounds for revoking provisional license.*—(a) The Division must revoke the license of a person convicted of violating the provisions of G.S. 20-138.3 upon receipt of a record of the licensee's conviction.

(b) If a person is convicted of an offense involving impaired driving and the offense occurs while he is a provisional licensee, his license must be revoked under this section in addition to any other revocation required or authorized by law.

(c) If a person willfully refuses to submit to a chemical analysis pursuant to G.S. 20-16.2 while he is a provisional licensee, his license must be revoked under this section, in addition to any other revocation required or authorized by law. A revocation order entered under authority of this subsection becomes effective at the same time as a revocation order issued under G.S. 20-16.2 for the same willful refusal.

(d) A revocation under this section continues until the provisional licensee reaches 18 years of age or 45 days have elapsed, whichever occurs last. Revocations under this section run concurrently with any other revocations, but a limited driving privilege issued pursuant to law does not authorize a provisional licensee to drive if his license is revoked under this section."

—DRIVING BY PROVISIONAL LICENSEE AFTER DRINKING.

Sec. 34. Chapter 20 of the General Statutes is amended by adding a new section, G.S. 20-138.3, to read as follows:

"§ 20-138.3. *Driving by provisional licensee after consuming alcohol or drugs.*—(a) Offense. It is unlawful for a provisional licensee to drive a motor vehicle on a highway or public vehicular area while consuming alcohol or at any time while he has remaining in his body any alcohol or in his blood a controlled substance previously consumed, but a provisional licensee does not violate this section if he drives with a controlled substance in his blood which was lawfully obtained and taken in therapeutically appropriate amounts.

(b) Subject to Implied-Consent Law. An offense under this section is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2.

(c) Punishment; Effect When Impaired Driving Offense Also Charged. The offense in this section is punishable under G.S. 20-176(b). It is not, in any circumstances, a lesser included offense of impaired driving under G.S. 20-138.1, but if a person is convicted under this section and of an offense involving impaired driving arising out of the same transaction, the aggregate punishment imposed by the court may not exceed the maximum applicable to the offense involving impaired driving, and any minimum punishment applicable must be imposed."

—FRAUDULENT USE OF ID; AIDER AND ABETTOR PUNISHMENT.

Sec. 35. G.S. 18B-302 is amended by rewriting subsections (b), (c), (e), and (f), and adding subsection (g) to read as follows:

"(b) Purchase or Possession. It shall be unlawful for:

(1) A person less than 19 years old to purchase, to attempt to purchase, or to possess malt beverages or unfortified wine; or

(2) A person less than 21 years old to purchase, to attempt to purchase, or to possess fortified wine, spirituous liquor, or mixed beverages.

(c) Aider and Abettor.

(1) By underage person. Any person who is under the lawful age to purchase and who aids or abets another in violation of subsection (a) or (b) of this section shall be guilty of a misdemeanor punishable by a fine up to five hundred dollars ($500.00) or imprisonment for not more than six months, or both, in the discretion of the court.

(2) By person over lawful age. Any person who is over the lawful age to purchase and who aids or abets another in violation of subsection (a) or (b) of this section shall be guilty of a misdemeanor punishable by a fine of up to two thousand dollars ($2,000) or imprisonment for not more than two years, or both, in the discretion of the court.

(e) Fraudulent Use of Identification. It shall be unlawful for any person to obtain or attempt to obtain alcoholic beverages in violation of subsection (b) of this section by using or attempting to use:

(1) A fraudulent or altered driver's license; or

(2) A fraudulent or altered identification document other than a driver's license; or

(3) A driver's license issued to another person; or

(4) An identification document other than a driver's license issued to another person.

(f) Allowing Use of Identification. It shall be unlawful for any person to permit the use of his driver's license or any other identification document of any kind by any person who violates or attempts to violate subsection (b) of this section.

(g) Conviction Report Sent to Division of Motor Vehicles. The court shall file a conviction report with the Division of Motor Vehicles indicating the name of the person convicted and any other information requested by the Division if the person is convicted of:

(1) A violation of subsection (e) or (f) of this section; or

(2) A violation of subdivision (c)(1) of this section; or

(3) A violation of subsection (b) of this section, if the violation occurred while the person was purchasing or attempting to purchase an alcoholic beverage.

Upon receipt of a conviction report, the Division shall revoke the person's license as required by G.S. 20-17.3."

—REVOCATION FOR UNDERAGE PURCHASERS OF ALCOHOL.

Sec. 36. General Statutes Chapter 20 is amended by adding a new section to read:

"§ 20-17.3. *Revocation for underage purchasers of alcohol.*—The Division shall revoke for one year the driver's license of any person who has been convicted of violating any of the following:

(1) G.S. 18B-302(c)(1), (e), or (f); or

(2) G.S. 18B-302(b), if the violation occurred while the person was purchasing or attempting to purchase an alcoholic beverage.

If the person's license is currently suspended or revoked, then the revocation under this section shall begin at the termination of that revocation."

PART III. DRAM SHOP OWNER LIABILITY.

—DRAM SHOP OWNER LIABILITY; BURDEN OF PROOF.

Sec. 37. Chapter 18B of the General Statutes is amended by adding a new Article 1A to read:

"Article 1A.

"Compensation for Injury Caused by Sales to Underage Persons.

"§ 18B-120. *Definitions.*—As used in this Article:

(1) 'Aggrieved Party' means a person who sustains an injury as a consequence of the actions of the underage person, but does not include the underage person or a person who aided or abetted in the sale or furnishing to the underage person.

(2) 'Injury' includes, but is not limited to, personal injury, property loss, loss of means of support, or death. Damages for death shall be determined under the provisions of G.S. 28A-18-2(b). Nothing in G.S. 28A-18-2(a) or subdivision (1) of this section shall be interpreted to preclude recovery under this Article for loss of support or death on account of injury to or death of the underage person or a person who aided or abetted in the sale or furnishing to the underage person.

(3) 'Underage person' means a person who is less than the age legally required for purchase of the alcoholic beverage in question.

(4) 'Vehicle' shall have the same meaning as prescribed by G.S. 20-4.01(49).

"§ 18B-121. *Claim for relief created for sale to underage person.*—An aggrieved party has a claim for relief for damages against a permittee or local Alcoholic Beverage Control Board if:

(1) The permittee or his agent or employee or the local board or its agent or employee negligently sold or furnished an alcoholic beverage to an underage person; and

(2) The consumption of the alcoholic beverage that was sold or furnished to an underage person caused or contributed to, in whole or in part, an underage driver's being subject to an impairing substance within the meaning of G.S. 20-138.1 at the time of the injury; and

(3) The injury that resulted was proximately caused by the underage driver's negligent operation of a vehicle while so impaired.

"§ 18B-122. *Burden of proof and admissibility of evidence.*—The plaintiff shall have the burden of proving that the sale or furnishing of the alcoholic beverage to the underage person, as defined, was, under the circumstances, negligent. Proof of the sale or furnishing of the alcoholic beverage to an underage person, as defined, without request for identification shall be admissible as evidence of negligence. Proof of good practices (including but not limited to, instruction of employees as to laws regarding the sale of alcoholic beverages, training of employees, enforcement techniques, admonishment to patrons concerning laws regarding the purchase or furnishing of alcoholic beverages, or detention of a person's identification documents in accordance with G.S. 18B-129 and inquiry about the age or degree of intoxication of the person), evidence that an underage person misrepresented his age, or that the sale or furnishing was made under duress is admissible as evidence that the permittee was not negligent.

"§ 18B-123. *Limitation on damages.*—The total amount of damages that may be awarded to all aggrieved parties pursuant to any claims for relief under this Article is limited to no more than five hundred thousand dollars ($500,000) per occurrence. When all claims arising out of an occurrence exceed five hundred thousand dollars ($500,000), each claim shall abate in the proportion it bears to the total of all claims.

"§ 18B-124. *Joint and several liability.*—The liability of the negligent driver or owner of the vehicle that caused the injury and the permittee or ABC Board which sold or furnished the alcoholic beverage shall be joint and several, with right of contribution but not indemnification.

"§ 18B-125. *Exceptions.*—This Article does not create a claim for relief against the following:

(1) One who holds only a brown bagging permit, a special occasions permit, or a limited special occasions permit;

(2) One who holds only a special one-time permit under G.S. 18B-1002;

(3) One who holds only permits listed in G.S. 18B-1100;

(4) One who holds any combination of the permits listed in this section.

"§ 18B-126. *Statute of limitations.*—The statute of limitations is as provided in G.S. 1-54.

"§ 18B-127. *Duty of clerk of superior court.*—When execution on a judgment on a cause of action under G.S. 18B-121 is returned unsatisfied, in whole or in part, the clerk of superior court to whom such return is made shall transmit to the Commission certified copies of the judgment, the execution and return and any other proceedings upon the judgment.

"§ 18B-128. *Common law rights not abridged.*—The creation of any claim for relief by this Article may not be interpreted to abrogate or abridge any claims for relief under the common law, but this Article does not authorize double recovery for the same injury.

"§ 18B-129. *No liability for refusal to sell or for holding documents.*—(a) No permittee or his agent or employee may be held liable for damages resulting from the refusal to sell or furnish an alcoholic beverage to a person who fails to show proper identification as described in G.S. 18B-302(d), or who appears to be an underage person.

(b) No permittee or his agent or employee may be held civilly liable if the permittee or his agent or employee holds a customer's identification documents for a reasonable length of time in a good faith attempt to determine whether the customer is of legal age to purchase an alcoholic beverage, provided the permittee or his agent or employee informs the customer of the reason for his actions."

—STATUTE OF LIMITATIONS.

Sec. 38. G.S. 1-54 is amended by adding a new subdivision (7) to read:

"(7) For recovery of damages under Article 1A of General Statutes Chapter 18B."

—ABC PERMITTEE'S REQUIREMENTS.

Sec. 39. G.S. 18B-900(a) is amended by adding a new subdivision (7) to read as follows:

"(7) Not have, whether as an individual or as an officer, director, shareholder or manager of a corporate permittee, an unsatisfied outstanding final judgment that was entered against him in an action under Article 1A of this Chapter."

—REVOCATION OF PERMIT FOR NONPAYMENT OF JUDGMENT.

Sec. 40. G.S. 18B-1003 is amended by adding thereto a new subsection (d) to read as follows:

"(d) Financial Responsibility. A permittee shall pay all judgments rendered against him under the provisions of Article 1A of this Chapter. When the Commission is informed, under the provisions of G.S. 18B-127 that there is an outstanding unsatisfied judgment against a permittee, the Commission shall suspend all of the permittee's permits. Notice and hearing are not required for a suspension under this subsection, and the suspension shall become effective immediately upon the Commission's receipt of the report. The suspension shall remain in effect until the permittee demonstrates that he has satisfied the judgment by payment in full. Nothing in this section relieves the permittee of the obligation to pay any applicable fees as a precondition of the reinstatement of his permit."

—LOCAL BOARD NOT COUNTY OR CITY AGENCY.

Sec. 41. G.S. 18B-101(8) is amended by adding thereto the following:

"A local board is an independent local political subdivision of the State. Nothing in this Chapter shall be construed as constituting a local board the agency of a city or county or of the Commission."

—NO LEGISLATIVE INTENT AS TO CIVIL LIABILITY FOR SALES TO INTOXICATED PERSONS.

Sec. 41.1. The original inclusion and ultimate deletion in the course of passing this act of statutory liability for certain persons who sell or furnish alcoholic beverages to intoxicated persons does not reflect any legislative intent

one way or the other with respect to the issue of civil liability for negligence by persons who sell or furnish those beverages to such persons.

PART IV. EFFECTIVE DATE AND TRANSITIONAL PROVISIONS.

—SAVING CLAUSE FOR PROSECUTIONS AND REVOCATIONS.

Sec. 42. Prosecutions for offenses occurring before the effective date of this act and administrative actions affecting drivers' licenses based on these offenses are not abated or affected by the repeal or amendment in this act of statutes creating or punishing the offense or authorizing administrative action concerning a driver's license, and the statutes that would be applicable but for the amendments and repealers in this act remain applicable to those prosecutions and administrative actions.

—APPLICABILITY OF DRAM SHOP PROVISIONS.

Sec. 43. Sections 37, 38, 39 and 40 of this act apply only to acts and omissions occurring on or after the effective date of this act.

—CAPTIONS NOT LIMIT TEXT/ONLY FOR REFERENCE.

Sec. 44. The series of captions used in this act (the descriptive phrases in all capital letters identified by parts numbered with Roman numerals or preceded by hyphens) are inserted for convenience and reference only; and in no way define, limit, or prescribe the scope or application of the text of this act.

—SEVERABILITY.

Sec. 45. If any provision of this act or its application to any person or circumstances is held invalid by any court of competent jurisdiction, the invalidity will not affect other provisions or applications that can be given effect without the invalid provision or application; and to this end the provisions of this act are severable.

—RESERVE FUND FOR IMPLEMENTATION.

Sec. 45.1. The funds collected pursuant to Section 14 of this act shall be paid into a Reserve Fund. Funds from this Reserve Fund may be transferred by the Director of the Budget, with the advice of the Joint Legislative Commission on Governmental Operations, for the sole purpose of implementing the Safe Roads Act of 1983, including reimbursement to counties for increased jail expenses incurred as a result of this act. Any funds from the Reserve Fund not used to implement the Safe Roads Act of 1983 shall revert to the General Fund.

—EFFECTIVE DATE.

Sec. 46. Except as provided in Sections 42 and 43, this act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.

H. B. 198 CHAPTER 436

AN ACT TO EXEMPT NONRESIDENT MILITARY DEPENDENTS FROM DRIVER'S LICENSE REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-8(3) is amended by adding a new sentence at the end to read:

"This exemption specifically applies to nonresident military spouses, regardless of their employment status, who are temporarily residing in North Carolina due to the active duty military orders of a spouse."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

H. B. 580 CHAPTER 437

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE TO PROVIDE FOR AN ALTERNATIVE EMINENT DOMAIN PROCEDURE.

The General Assembly of North Carolina enacts:

Section 1. Section 7.81 of the Charter of the City of Charlotte, being Chapter 713, Session Laws of 1965 as amended by Chapter 216, Session Laws of 1967, Chapter 384, Session Laws of 1969, and Chapters 432 and 1046, Session Laws of 1973, is rewritten to read:

"Sec. 7.81. The City of Charlotte shall have the power of eminent domain and may acquire, either by purchase, gift or condemnation, any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land, water or improvements, either within or without the city limits, for any lawful public use or purpose, in the exercise of the power of eminent domain, the city is hereby vested with all power and authority now or hereafter granted by the laws of North Carolina applicable to the City of Charlotte, and the city shall follow the procedures now or hereafter prescribed by said laws; provided that, notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water supply and distribution systems, sewage collection and disposal systems, and airports, the City of Charlotte is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided further, that whenever therein the words 'Secretary' or 'Secretary of Transportation' appear, they shall be deemed to include the 'City Manager'; provided further that nothing herein shall be construed to enlarge the power of the City of Charlotte to condemn property already devoted to public use. The City of Charlotte is also vested with the authority to condemn for public library purposes, property, rights, privileges, easements and restrictive covenants and conditions, including any restrictive covenants and conditions applicable to real estate now or hereafter owned, restricting the use of same in any manner whatsoever."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

H. B. 671 CHAPTER 438

AN ACT TO ALLOW APPRENTICE AND REGISTERED COSMETOLOGISTS FROM OTHER STATES TO BE ADMITTED TO PRACTICE COSMETIC ART IN NORTH CAROLINA THROUGH RECIPROCITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88-19 is amended in the third paragraph by deleting the following: ", provided the applicant files his application on or before June 30, 1982".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

H. B. 742 CHAPTER 439

AN ACT RELATING TO THE ELECTION OF TRUSTEES OF SMITHVILLE TOWNSHIP'S J. ARTHUR DOSHER MEMORIAL HOSPITAL.

The General Assembly of North Carolina enacts:

Section 1. The successors to those two trustees of Smithville Township's J. Arthur Dosher Memorial Hospital, whose terms of office should have expired in 1981 pursuant to G.S. 131-7, shall be elected in 1983, under the provisions of G.S. 131-7, and the two persons elected shall serve for a term of four years. Thereafter, successors to these two positions shall be elected for terms of six years. Those two incumbents whose terms should have expired in 1981 shall hold office until the 1983 election, and until their successors are elected and qualified. In the 1983 election, the three candidates receiving the highest number of votes shall serve six-year terms for those positions expiring in 1983 and the two candidates receiving the next highest number of votes shall serve four-year terms for those positions which should have expired in 1981.

Sec. 2. All actions of the Board of Trustees of Smithville Township's J. Arthur Dosher Memorial Hospital which are otherwise valid, but which may be questioned due to the failure to elect two successor trustees in 1981 pursuant to G.S. 131-7, are hereby declared valid, affirmed and ratified.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

H. B. 848 CHAPTER 440

AN ACT TO CONVERT TO FEE SIMPLE CERTAIN NINETY-NINE YEAR LEASES OF THE TOWN OF SMITHVILLE OR THE CITY OF SOUTHPORT.

Whereas, Chapter 114, Laws of 1812, provided that as to all waterskirts and beachskirts leased from the commissioners of the Town of Smithville, and such persons who may thereafter receive leases for such frontskirts, they may be vested and confirmed with permanent and lawful rights of inheritance, and that all other leased lots were declared to be absolute to the "leaser" and held by "leases" in fee simple; and

Whereas, Chapter 54, Private Laws of 1813, states that the 1812 law indicated that proprietors of leases may be thereafter vested with permanent right of inheritance, but did not absolutely vest the same, and then proceeds to state that "all the leased lots in front of, adjoining to and around the Town of Smithville shall be and they are hereby vested in the lessees, their heirs and assigns, forever"; and

Whereas, the commissioners of the Town of Smithville and the City of Southport continued to make 99-year leases until about the year 1900; and

Whereas, the name of the Town of Smithville was changed to the City of Southport by Chapter 76, Private Laws of 1887; and

Whereas, the town made numerous 99-year leases in the nineteenth century subsequent to the 1812 and 1813 laws, and apparently assumed the 1812 law converted them into fee simple; and

Whereas, many of these leases have expired or are soon about to expire; and

Whereas, the City of Southport does not desire to lay any claim to the underlying fee simple; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. All leases for a term of 99 years made by the Town of Smithville or the City of Southport on or before December 31, 1899, and recorded on or before that date, are declared to have been made as deeds in fee simple.

Sec. 2. This act shall become effective July 1,1983.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

H. B. 865 CHAPTER 441

AN ACT TO AUTHORIZE COUNTIES TO REGULATE DEVELOPMENT IN ESTUARINE WATERS AND PUBLIC TRUST LANDS UNDER NAVIGABLE WATERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-340 is amended by adding new paragraphs, at the end, to read:

"A county may regulate the development over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12, within the bounds of that county.

For the purpose of this section, the term 'structures' shall include floating homes."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

H. B. 979 CHAPTER 442

AN ACT TO PROVIDE AUTHORIZATION FOR GENERAL PERMITS UNDER THE DREDGE AND FILL LAW AND CLARIFICATION OF GENERAL PERMITS UNDER THE COASTAL AREA MANAGEMENT ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-118.1, as adopted by Chapter 171 of the 1983 Session Laws, is amended by adding the following subsections:

"(c) The Commission may impose reasonable notice provisions and other appropriate conditions and safeguards on any general permit it issues.

(d) The variance, appeals, and enforcement provisions of this Article shall apply to any individual development projects undertaken under a general permit."

Sec. 2. A new subsection is added to G.S. 113-229 to read:

"(c1) The Coastal Resources Commission may, by rule, designate certain classes of major and minor development for which a general or blanket permit may be issued. In developing these rules, the Commission shall consider:

(1) The size of the development;

(2) The impact of the development on areas of environmental concern;

(3) How often the class of development is carried out;

(4) The need for on-site oversight of the development; and

(5) The need for public review and comment on individual development projects.

General permits may be issued by the Commission as rules under the provisions of G.S. 113A-107. Individual development carried out under the provisions of general permits shall not be subject to the mandatory notice provisions of this section. The Commission may impose reasonable notice provisions and other appropriate conditions and safeguards on any general permit it issues. The variance, appeals, and enforcement provisions of this Article shall apply to any individual development projects undertaken under a general permit."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

S. B. 177 CHAPTER 443

AN ACT TO REQUIRE THAT DRIVERS' LICENSES AND SPECIAL IDENTIFICATION CARDS BE COLOR-CODED ACCORDING TO AGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-7(n) is amended by adding between the first and second sentences of that subsection the following:

"Drivers' licenses shall be issued with differing color photographic backgrounds according to the licensee's age at time of issuance for the following age groups:

(1) persons who have not attained the age of 19 years;

(2) persons who have attained the age of 19 years but have not attained the age of 21 years; and

(3) persons who have attained the age of 21 years.

The Division of Motor Vehicles shall determine the different colors to be used."

Sec. 2. G.S. 20-37.7(c) is rewritten to read:

"(c) Special identification cards shall be issued with differing color photographic backgrounds according to the holder's age at time of issuance for the following age groups:

(1) persons who have not attained the age of 19 years;

(2) persons who have attained the age of 19 years but have not attained the age of 21 years; and

(3) persons who have attained the age of 21 years.

The card shall be similar in size, shape, and design to a driver's license, but shall clearly state that it does not entitle the person to whom it is issued to operate a motor vehicle."

Sec. 3. G.S. 20-14 is rewritten to read:

"Sec. 20-14. Duplicate Licenses. A licensee may obtain a duplicate license, upon payment of a fee of five dollars ($5.00), if he furnishes to the Division satisfactory proof that:

(1) he has lost or destroyed his license; or

(2) it is necessary to change the name or address on the license; or

(3) he has reached the age wherein he is entitled to a license with a different color photographic background."

Sec. 4. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

S. B. 349 CHAPTER 444

AN ACT TO AMEND THE ENABLING ACT OF THE GREENSBORO-HIGH POINT AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. That Chapter 1078, Session Laws of 1979 (Second Session, 1980), which reenacted, ratified, validated and confirmed Chapter 98, Public-Local Laws of 1941, as amended by Chapter 601, Session Laws of 1943, Chapter 137, Session Laws of 1945, Chapter 1198, Session Laws of 1957, and Chapter 793, Session Laws of 1969, be, and the same is hereby amended in the following respects:

(a) By amending Section (h) of Section 3 of said Chapter 1078 of the Session Laws of 1979 (Second Session, 1980), to read as follows:

"(h) Private property needed by said Airport Authority for any airport, landing field, or facilities of same may be acquired by gift or devise, or may be acquired by private purchase or by the exercise of the power of eminent domain by the Airport Authority according to the procedures and subject to the provisions applicable to a 'Local Public Condemnor' under Chapter 40A of the General Statutes of North Carolina. Avigation easements needed by the Airport Authority for any airport, landing field or facilities of same may likewise be acquired by gift, devise, or private purchase or by the exercise of the power of eminent domain by said Authority according to the procedures and subject to the provisions applicable to a 'Local Public Condemnor' under Chapter 40A of the General Statutes of North Carolina."

(b) By adding to Section 3 of said Chapter 1078 of said Session Laws of 1979 (Second Session, 1980), a new section immediately following Section (k) which shall be designated Section (l) and shall read as follows:

"(l) Violation of any rule or regulation of the Airport Authority relating to the conduct, safety, or welfare of the public while upon the Greensboro/High Point/Winston-Salem Regional Airport or relating to the use by the public of said Airport adopted pursuant to the power vested in said Airport Authority under Section (d)(5) of this Section 3 and published, filed and posted as hereinafter provided shall constitute a misdemeanor punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days, in the discretion of the court. The Authority shall cause to be published in a newspaper of general circulation in Guilford County, North Carolina, and qualified to publish legal advertising, not more than 30 days nor less then seven days before any such rule or regulation is introduced for adoption by the

Authority, a notice describing the general nature of the rule or regulation and setting forth the time, date, and place of the meeting of the Authority when and where the Authority will consider the adoption of the same and stating that if the same is adopted, the violation thereof shall constitute a misdemeanor under the Enabling Act of the Authority. All such rules and regulations so adopted shall be recorded in the proceedings of the Authority and a true copy of all such rules and regulations, certified under the hand of the Secretary and the seal of the Authority, shall be: (a) filed with the Clerk to the Board of County Commissioners of Guilford County, North Carolina, with the City Clerk of the City of Greensboro, North Carolina, and with the City Clerk of the City of High Point, North Carolina; and (b) posted at a public place in the enplaning level of the terminal building of the Greensboro/High Point/Winston-Salem Regional Airport and in a public place in the deplaning level of said terminal building."

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. If any one or more sections, clauses, sentences or parts of this act shall be adjudged invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions held invalid, and the inapplicability or invalidity of any section, clause, sentence or part of this act in one or more instances or circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Sec. 4. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

S. B. 353 CHAPTER 445

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF MURFREESBORO AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Murfreesboro is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF MURFREESBORO.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. *Incorporation.* The Town of Murfreesboro, North Carolina, in the County of Hertford, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Murfreesboro', hereinafter at times referred to as the Town.

"Sec. 1.2. *Powers.* The Town of Murfreesboro shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be, conferred, either expressly or by implication, upon the Town of Murfreesboro, specifically, or upon municipal corporations, generally, by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. *Corporate Limits.* The corporate limits of the Town of Murfreesboro shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the Town, and as the same may be altered from time to time in accordance with law. An official map of the

Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the Town shall be made.

"Sec. 1.4 through 1.10 (reserved).

"ARTICLE II.

"MAYOR AND COUNCIL.

"Sec. 2.1. *Governing Body.* The Mayor and Town Council, elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of the Town, and in conformity with applicable laws, the Mayor and Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 2.2. *Town Council; Composition; Terms of Office.* The Town Council shall be composed of five members, each of whom shall be elected for a term of two years in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. *Mayor; Term of Office; Duties.* The Mayor shall be elected in the manner provided by Article III of this Charter to serve for a term of two years, or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Town Council. The Mayor shall have the right to vote only when there are an equal number of votes in the affirmative and the negative on any motion before the Council. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town.

"Sec. 2.4. *Mayor Pro Tempore.* In accordance with applicable State laws, the Council shall appoint one of its members to act as Mayor Pro Tempore to perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"Sec. 2.5. *Meetings of the Council.* In accordance with the General Statutes, the Council shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 2.6. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of Town ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Council. The enacting clause of all Town ordinances shall be: 'Be it ordained by the Town Council of the Town of Murfreesboro'.

"Sec. 2.7. *Voting Requirements; Quorum.* Official action of the Council shall in every instance be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the Council, is present. Vacant seats are to be subtracted from the normal Council membership to determine the actual membership.

"Sec. 2.8. *Qualifications for Office; Vacancies; Compensation.* The compensation of Council members, the filling of vacancies on the Council, and the qualifications of Council members shall be in accordance with applicable provisions of the General Statutes.

"Sec. 2.9 through 2.15 (reserved).

"ARTICLE III.

"ELECTIONS.

"Sec. 3.1. *Regular Municipal Elections; Conduct and Method of Election.* Regular municipal elections shall be held in the Town every two years in odd numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the Council shall be elected according to the non-partisan plurality method of election.

"Sec. 3.2. *Election of the Mayor.* At the regular municipal election in 1983, and every two years thereafter, there shall be elected a Mayor to serve a term of two years. The Mayor shall be elected by the voters of the Town voting at large.

"Sec. 3.3. *Election of the Council Members.* At the regular municipal elections in 1983 and every two years thereafter, there shall be elected five Council members to serve terms of two years. All Council members shall be elected by the voters of the Town voting at large.

"Sec. 3.4 through 3.10 (reserved).

"ARTICLE IV.

"ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. *Form of Government.* The Town shall operate under the Mayor-Council form of government, in accordance with Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. *Town Attorney.* The Town Council shall appoint a Town Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the Town Attorney to prosecute and defend suits against the Town; to advise the Mayor, Town Council and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend meetings of the Town Council; and to perform other duties required by law or as the Town Council may direct.

"Sec. 4.3. *Town Clerk.* The Town Council shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain in a safe place all records and documents pertaining to the affairs of the Town, to be the chief administrative official for the Town, and to perform such other duties as may be required by law or as the Town Council may direct.

"Sec. 4.4. *Town Tax Collector.* The Town Council shall appoint a Town Tax Collector to collect all taxes, licenses, fees and other monies belonging to the Town, subject to the General Statutes, the provisions of this Charter, and the ordinances of the Town. The Town Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes by municipalities. The duties of the Tax Collector may be conferred upon the Town Clerk, or any other Town employee.

"Sec. 4.5. *Other Administrative Officers and Employees.* Consistent with applicable State laws, the Town Council may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the Town government in order to promote the orderly and efficient administration of the affairs of the Town.

"Sec. 4.6 through 4.10 (reserved).

"ARTICLE V.

"SPECIAL PROVISIONS.

"Sec. 5.1. *Assessments for Street and Sidewalk Improvements; Petition Unnecessary.*

A. In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Council is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Section.

B. For the purposes of this Section, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

C. In addition to any authority which is now or may hereafter be granted by general law to the Town for making street or sidewalk improvements, the Council is hereby authorized, without the necessity of obtaining a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Council may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

D. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Section, the Council shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

E. The effect of the act of levying assessments under the authority of this Section shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Murfreesboro and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Murfreesboro.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Chapter	59, Private Laws of 1786 (Iredell)
Chapter	95, Private Laws of 1794
Chapter	73, Public Laws of 1798

Chapter 118, Private Laws of 1812
Chapter 120, Private Laws of 1825
Chapter 54, Private Laws of 1829-30
Chapter 141, Private Laws of 1830-31
Chapter 55, Private Laws of 1840-41
Chapter 243, Private Laws of 1854-55
Chapter 35, Private Laws of 1866-67
Chapter 110, Public Laws of 1872-73
Chapter 180, Public Laws of 1872-73
Chapter 114, Private Laws of 1874-75
Chapter 186, Public Laws of 1876-77
Chapter 138, Private Laws of 1885
Chapter 286, Public Laws of 1887
Chapter 365, Public Laws of 1887
Chapter 557, Public Laws of 1889
Chapter 250, Private Laws of 1891
Chapter 19, Private Laws of 1893
Chapter 24, Private Laws of 1895
Chapter 55, Private Laws of 1897
Chapter 455, Public Laws of 1901
Chapter 559, Public Laws of 1901
Chapter 339, Private Laws of 1901
Chapter 303, Public Laws of 1907
Chapter 418, Public Laws of 1907
Chapter 86, Private Laws of 1907
Chapter 320, Private Laws of 1909
Chapter 33, Private Laws of 1921 (Extra Session)
Chapter 200, Private Laws of 1921
Chapter 146, Private Laws of 1923
Chapter 178, Private Laws of 1931
Chapter 16, Private Laws of 1937
Chapter 19, Public-Local Laws of 1941
Chapter 31, Session Laws of 1943
Chapter 335, Session Laws of 1947
Chapter 672, Session Laws of 1957
Chapter 1093, Session Laws of 1957
Chapter 737, Session Laws of 1959
Chapter 1198, Session Laws of 1959
Chapter 64, Session Laws of 1961
Chapter 91, Session Laws of 1961
Chapter 1035, Session Laws of 1961
Chapter 22, Session Laws of 1963
Chapter 1034, Session Laws of 1967
Chapter 368, Session Laws of 1969.

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. All existing ordinances and resolutions of the Town of Murfreesboro and all existing rules or regulations of departments or agencies of the Town of Murfreesboro not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified or amended.

Sec. 8. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Murfreesboro or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 9. If any of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 11. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

S. B. 420 CHAPTER 446

AN ACT TO REQUIRE NUMBERING OF ALL VESSELS.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 75A of the General Statutes of North Carolina is hereby amended by deleting the word "motorboat" in each case where the same appears in subsection (3) of G.S. 75A-2 and in G.S. 75A-4, 75A-5, 75A-7 and 75A-8 and by inserting in lieu thereof, in each case, the word "vessel".

Sec. 2. G.S. 75A-5.1, G.S. 75A-7, and subsections (a) and (d) of G.S. 75A-5 are hereby amended by deleting the word "motorboats" where the same appears therein and by inserting in lieu thereof, in each case, the word "vessels".

Sec. 3. G.S. 75A-7 is hereby further amended by adding three new subdivisions numbered (5), (6) and (7) at the end thereof to read as follows:

"(5) A vessel which has a valid marine document issued by the Bureau of Customs of the United States government or any federal agency successor thereto.

(6) A sailboat of not more than 14 feet on the load water line (LWL).

(7) A vessel with no means of propulsion other than drifting or manual paddling, poling, or rowing."

Sec. 4. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

S. B. 364 CHAPTER 447

AN ACT TO INCLUDE TWO SATELLITE AREAS WITHIN THE CORPORATE LIMITS OF THE TOWN OF FOUR OAKS.

The General Assembly of North Carolina enacts:

Section 1. In addition to the corporate limits of the Town of Four Oaks, as now constituted, the corporate limits of the said Town shall include the following described areas:

(1) *Tract I*

Being all of Lots One (1) through Seven (7) and Lots Thirty (30) through Forty (40), Forest Hills Subdivision, Section One, together with those portions of Forest Hills Drive and Harper Avenue included within Section One, as shown on the map recorded in Map Book 14 at Page 19, Office of the Register of Deeds, Johnston County, North Carolina; and

(2) *Tract II*

Being all of Lots Eight (8) through Twenty-nine (29), and Lots Forty-one (41) and Forty-two (42), Forest Hills Subdivision, Section Two, together with those portions of Harper Avenue and Pine Drive included within Section Two, as shown on the map recorded in Map Book 15 at Page 167, Office of the Register of Deeds, Johnston County, North Carolina.

The above two tracts adjoin, and together make up Sections One and Two, Forest Hills Subdivision, which is located South of U.S. 301 in Ingrams Township, Johnston County.

Sec. 2. The corporate limits of the areas annexed by Section One of this act shall be considered satellite corporate limits within the meaning of Part 4 of Article 4A of Chapter 160A of the General Statutes and they shall not be considered to be external boundaries for the purpose of G.S. 160A-48(b)(2) of G.S. 160A-48(d).

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

S. B. 432 CHAPTER 448

AN ACT TO PROHIBIT BEAR HUNTING WITH DOGS IN PAMLICO COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt, take or kill bear with dogs.

Sec. 2. Violation of this act is a misdemeanor punishable for a first conviction by a fine of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00) or by imprisonment not to exceed 30 days, and punishable for a second or subsequent conviction within three years by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), by imprisonment not to exceed 90 days or by both.

Sec. 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by deputy sheriffs and by other peace officers with general subject matter jurisdiction.

Sec. 4. This act applies only to Pamlico County.

Sec. 5. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

S. B. 39 CHAPTER 449

AN ACT TO AMEND CHAPTER 39 TO FURTHER EQUALIZE BETWEEN MARRIED PERSONS THE RIGHT TO INCOME, POSSESSION AND CONTROL IN PROPERTY OWNED CONCURRENTLY IN TENANCY BY THE ENTIRETY.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 39-13.6(c) is deleted.

Sec. 2. The second sentence of G.S. 39-13.6(c) is rewritten to read:

"For income tax purposes, each spouse is considered to have received one-half (1/2) the income or loss from property owned by the couple as tenants by the entirety."

Sec. 3. Section 1 of this act shall become effective July 1, 1983. Section 2 of this act is effective for taxable years beginning on or after January 1, 1983, except that all income received on or after January 1, 1983, but before July 1, 1983, from a tenancy by the entirety created before January 1, 1983, is considered to have been received by the husband and is reportable by him unless each spouse, by agreement, elects to report one-half (1/2) the income or loss from the property for the period January 1, 1983, to July 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

S. B. 268 CHAPTER 450

AN ACT TO AMEND CHAPTER 143 OF THE GENERAL STATUTES, ARTICLE 21, PART 8, SO AS TO MAKE FLOOD CONTROL PROJECTS AND ALL LOCAL WATER-BASED RECREATION PROJECTS ELIGIBLE FOR COST-SHARING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.71(3) is rewritten to read:

"Construction costs for water management (flood control and drainage) purposes, including utility and road relocations not funded by the State Department of Transportation - sixty-six and two-thirds percent (66-2/3%), but only of that portion of the project specifically allocated for such flood control or drainage purposes."

Sec. 2. G.S. 143-215.71(6) is rewritten to read:

"Land acquisition and facility development for water-based recreation sites operated by local governments - fifty percent (50%)."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

S. B. 321 CHAPTER 451

AN ACT TO MAKE APPROPRIATE PUNISHMENT CLASSIFICATIONS FOR CONSPIRACIES TO COMMIT FELONIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding the following new section:

"§ 14-2.4. *Punishment for conspiracy to commit a felony.*—Unless a different punishment is expressly stated, a person who is convicted of a conspiracy to commit a felony is guilty:

(1) of a Class J felony if the felony he conspired to commit was a Class H, I, or J felony;

(2) of a Class H felony if the felony he conspired to commit was any other class of felony."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

S. B. 474 CHAPTER 452

AN ACT TO CHANGE THE COMPOSITION OF THE COMMITTEE ON EMPLOYEE HOSPITAL AND MEDICAL BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-38(a) (2) is rewritten to read:

"(2) The Majority Leader of the Senate".

Sec. 2. G.S. 135-38(a) (4) and (5) are rewritten to read:

"(4) A Cochairman of the Senate Committee on Base Budget designated by the President of the Senate.

(5) A Cochairman of the Senate Committee on Finance designated by the President of the Senate."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

H. B. 1034 CHAPTER 453

AN ACT TO CLARIFY THE PROCEDURES USED UNDER THE FAIR SENTENCING ACT WHEN SEVERAL CRIMES ARE CONSOLIDATED FOR JUDGMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1340.4(a) is amended by changing the period at the end of the third sentence to a comma and adding the following: "or unless when two or more convictions are consolidated for judgment he imposes a prison term (i) that does not exceed the total of the presumptive terms for each felony so consolidated, (ii) that does not exceed the maximum term for the most serious felony so consolidated, and (iii) that is not shorter than the presumptive term for the most serious felony so consolidated."

Sec. 2. G.S. 15A-1340.4(a) is amended by inserting in the fourth sentence between the word "Chapter" and the comma the following: ", or unless when two or more convictions are consolidated for judgment he imposes a prison term

(i) that does not exceed the total of the presumptive terms for each felony so consolidated, (ii) that does not exceed the maximum term for the most serious felony so consolidated, and (iii) that is not shorter than the presumptive term for the most serious felony so consolidated".

Sec. 3. G.S. 15A-1340.4(b) is amended by changing the period at the end of the last sentence to a comma and adding the following: "or if when two or more convictions are consolidated for judgment he imposes a prison term (i) that does not exceed the total of the presumptive terms for each felony so consolidated, (ii) that does not exceed the maximum term for the most serious felony so consolidated, and (iii) that is not shorter than the presumptive term for the most serious felony so consolidated."

Sec. 4. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

H. B. 651 CHAPTER 454

AN ACT TO AMEND THE ADOPTION STATUTES AND RELATED LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-1(2) is amended by deleting the word "foster" and substituting the word "adoptive".

Sec. 2. G.S. 48-7(a) is amended by deleting the reference "7A-288" and substituting the reference "Article 24B of Chapter 7A".

Sec. 3. G.S. 48-9(a)(3) is amended by deleting the reference "G.S. 7A-288" and substituting the reference "G.S. 7A-289.31".

Sec. 4. G.S. 48-9.1(2) is amended by deleting the reference "G.S. 7A-286(2)c." wherever it appears and substituting the reference "Article 52 of Chapter 7A".

Sec. 5. G.S. 48-16 is amended in the caption and in subsection (a) by deleting the word "foster" and substituting the word "adoptive".

Sec. 6. Chapter 48 of the General Statutes is amended by deleting the phrases "natural parent" and "natural parents" wherever they appear and substituting the phrases "biological parent" and "biological parents" respectively.

Sec. 7. Chapter 48 of the General Statutes is amended by deleting the phrase "unadoptable children" wherever it appears and substituting the words "children with special needs".

Sec. 8. G.S. 110-57.1 is amended by adding a new sentence at the end to read: "It is the intent of the General Assembly that Chapter 48 of the General Statutes shall govern the adoption of children within the boundaries of North Carolina."

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

H. B. 817 CHAPTER 455

AN ACT REGARDING ESCAPES FROM LOCAL CONFINEMENT FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-256 is amended by changing the period to a comma and adding the following:

"except that the person is guilty of a Class J felony if:

(1) he has been convicted of a felony and has been committed to the facility pending transfer to the State prison system; or

(2) he is serving a sentence imposed upon conviction of a felony."

Sec. 2. G.S. 14-258.2 is amended as follows:

(1) By rewriting the catch line to read: "*Possession of dangerous weapon in prison.*";

(2) By designating the present language as subsection (a); and

(3) By adding a new subsection to read:

"(b) A person is guilty of a Class H felony if he assists a prisoner in the custody of the Division of Prisons or of any local confinement facility as defined in G.S. 153A-217 in escaping or attempting to escape and:

(1) in the perpetration of the escape or attempted escape he commits an assault with a deadly weapon and inflicts bodily injury; or

(2) by the use of a deadly weapon he effects the escape of the prisoner."

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 7th day of June, 1983.

H. B. 850 CHAPTER 456

AN ACT TO ALLOW SALE OF HISTORIC PROPERTIES BY CITIES AND COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-266(b) is amended by adding the following paragraph at the end:

"Provided, however, a city may dispose of real property and personal property valued at five thousand dollars ($5,000) or more for any one item or group of similar items by private negotiation and sale where (i) said real or personal property is significant for its architectural, archaeological, artistic, cultural or historical associations, or significant for its relationship to other property significant for architectural, archaeological, artistic, cultural or historical associations, or significant for its natural, scenic or open condition; and (ii) said real or personal property is to be sold to a nonprofit corporation or trust whose purposes include the preservation or conservation of real or personal properties of architectural, archaeological, artistic, cultural, historical, natural or scenic significance; and (iii) where a preservation agreement or conservation agreement as defined in G.S. 121-35 is placed in the deed conveying said property from the city to the nonprofit corporation or trust. Said nonprofit corporation or trust shall only dispose of or use said real or personal property subject to covenants or other legally binding restrictions which will promote the preservation or conservation of the property, and, where appropriate, secure rights of public access."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1983.

H. B. 893 CHAPTER 457

AN ACT AMENDING THE ELIGIBILITY REQUIREMENTS FOR ABC STORE AND MIXED BEVERAGE ELECTIONS AND THE AUTHORIZATION OF SPECIAL OCCASION AND LIMITED SPECIAL OCCASION PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-403(g) is amended by deleting the first sentence and substituting the following:

"When a person holds a special occasion for which a permit under G.S. 18B-1001(8) or (9) is required, the purchase-transportation permit issued to him may provide for the storage at and transportation to and from the site of the special occasion of unfortified wine, fortified wine, and spirituous liquor for a period of no more than 48 hours before and after the special occasion. The purchase-transportation permit authorizes that person to transport only the amounts of those alcoholic beverages authorized by subsection (a)."

Sec. 2. G.S. 18B-600(d)(1) and (e)(1) are each amended by deleting the phrase "a population of 500 or more" and substituting the phrase "at least 500 registered voters".

Sec. 3. G.S. 18B-1001(8) and (9) are each amended by deleting the phrase "fortified wine" and substituting the phrase "unfortified wine, fortified wine,".

Sec. 4. G.S. 18B-605 is amended by rewriting the first sentence to read:

"If a jurisdiction has lawfully voted in favor of ABC stores or in favor of the sale of some kind of alcoholic beverage, and the jurisdiction would not be eligible to hold another election under the conditions set by G.S. 18B-600, then that jurisdiction may continue to hold elections as though qualified under G.S. 18B-600."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1983.

S. B. 386 CHAPTER 458

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM.

The General Assembly of North Carolina enacts:

Section 1. Section 17 of the Charter of the City of Durham, being Chapter 671, Session Laws of 1975, as amended by Section 1 of Chapter 1249, 1979 Session Laws, is further amended by striking from the second line of subparagraph (1) of the sixth paragraph of said Section 17 the words and figures "two thousand and five hundred dollars ($2,500)" and inserting in lieu thereof the words and figures "five thousand dollars ($5,000)".

Sec. 2. Section 69 of the Charter of the City of Durham is amended by striking therefrom the third full sentence and by substituting in lieu thereof the following three new sentences:

"A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the City. The

notice shall be published the first time not less than 10 nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included."

Sec. 3. Section 77(22) of the Charter of the City of Durham is hereby amended by striking the word "eight" appearing in the twelfth line and inserting in lieu thereof the word "nine".

Sec. 4. Section 84 of the Charter of the City of Durham is hereby amended by adding thereto a new subsection (1) to read as follows:

"(1) The statutory amounts in G.S. 143-129, relating to the awarding of public contracts, are amended so that the City Council, in awarding public contracts for the purchase of apparatus, supplies, materials, or equipment, is subject to the provisions of G.S. 143-129 only when such purchase requires an estimated expenditure of public funds in an amount equal to or more than twenty thousand dollars ($20,000)."

Sec. 5. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1983.

S. B. 285 CHAPTER 459

AN ACT RELATING TO REMOVAL OF UNAUTHORIZED VEHICLES FROM PRIVATE LOTS IN FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-219.2(a) is amended by deleting the phrase "a sign no smaller than 24 inches by 24 inches prominently displayed at the entrance thereto" and substituting therefor the phrase "a sign no smaller than 3 feet by 5 feet prominently displayed thereupon".

Sec. 2. G.S. 20-219.2(a) is further amended by deleting the phrase "and the parking spaces within the lot be clearly marked by signs setting forth the name of each individual lessee or owner".

Sec. 3. G.S. 20-219.2(a) is amended by adding the following immediately after the first sentence:

"The parking space owner, lessee, or their designated agent shall have the right to install a wheel restraining device on the wheel, with a warning upon the front windshield, of a vehicle parked in a privately owned parking space in violation of this section, as an alternative to removal. The vehicle shall be released from said device upon payment of a reasonable fee to the parking space owner, lessee or their designated agent."

Sec. 4. This act applies in Forsyth County only.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1983.

H. B. 700 **CHAPTER 460**

AN ACT TO ALLOW THE STATE TO TAKE A VOLUNTARY DISMISSAL WITH LEAVE WHEN A DEFENDANT IS FOUND INCAPABLE OF PROCEEDING.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes is amended by adding the following new section:

"§ 15A-1009. *Dismissal with leave when defendant is found incapable of proceeding.*—(a) If a defendant is found by the court to be incapable of proceeding and the charges have not been dismissed pursuant to G.S. 15A-1008, a prosecutor may enter a dismissal with leave under this section.

(b) Dismissal with leave results in removal of the case from the docket of the court, but all process outstanding, with the exception of any appearance bond, retains its validity, and all necessary actions in the case may be taken.

(c) The prosecutor may enter the dismissal with leave orally in open court or by filing the dismissal in writing with the clerk. If the dismissal is entered orally, the clerk must note the nature of the dismissal in the case records.

(d) Upon the defendant becoming capable of proceeding, or in the discretion of the prosecutor when he believes the defendant may soon become capable of proceeding, the prosecutor may reinstitute the proceedings by filing written notice with the clerk, with the defendant and with the defendant's attorney of record.

(e) A dismissal with leave entered under this section is no longer in effect if the court later dismisses the charges pursuant to G.S. 15A-1008.

(f) Nothing in this section shall limit or prohibit the court from dismissing criminal charges pursuant to G.S. 15A-1008 upon motion by the defendant or upon the court's own motion."

Sec. 2. G.S. 15A-1004(e) is amended by adding after the word "dismissed" and before the comma the words "pursuant to G.S. 15A-1008".

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

H. B. 702 **CHAPTER 461**

AN ACT TO AMEND THE NORTH CAROLINA GENERAL STATUTES CREATING THE NORTH CAROLINA HUMAN RELATIONS COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-392 is rewritten to read:

"§ 143B-392. *North Carolina Human Relations Council - members; selection; quorum; compensation.*—(a) The Human Relations Council of the Department of Administration shall consist of 20 members. The Governor shall appoint one member from each of the 11 congressional districts, plus five members at large, including the chairperson. The Speaker of the North Carolina House of Representatives shall appoint two members to the council. The Lieutenant Governor shall appoint two members to the council. The terms of four of the members appointed by the Governor shall expire June 30, 1988. The terms of four of the members appointed by the Governor shall expire June 30, 1987. The terms of four of the members appointed by the Governor shall expire June 30,

1986. The terms of four of the members appointed by the Governor shall expire June 30, 1985. The terms of the members appointed by the Speaker of the North Carolina House of Representatives shall expire June 30, 1986. The terms of the members appointed by the Lieutenant Governor shall expire June 30, 1986. At the end of the respective terms of office of the initial members of the council, the appointment of their successors shall be for terms of four years. No member of the commission shall serve more than two consecutive terms. A member having served two consecutive terms shall be eligible for reappointment one year after the expiration of his second term. Any appointment to fill a vacancy on the council created by the resignation, dismissal, death, or disability of a member shall be filled in the manner of the original appointment for the unexpired term.

(b) Members of the council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(c) A majority of the council shall constitute a quorum for the transaction of business.

(d) All clerical and support services required by the council shall be supplied by the Secretary of the Department of Administration."

Sec. 2. This act shall become effective July 1, 1984.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

S. B. 140 CHAPTER 462

AN ACT TO INCREASE THE AMOUNT THAT CAN BE RECEIVED IN BENEFITS FROM THE LEXINGTON FIREMEN'S SUPPLEMENTAL RETIREMENT FUND.

The General Assembly of North Carolina enacts:

Section 1. Section 6.1(c)(3) of the Charter of the City of Lexington, being Chapter 906 of the 1981 Session Laws is amended by deleting the phrase "three hundred dollars ($300.00)" and by substituting the phrase "one thousand dollars ($1,000)".

Sec. 2. None of the provisions of this act shall create an additional liability for the Lexington Firemen's Supplemental Retirement Fund unless current assets are available in the Fund to pay fully for the additional liability.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

S. B. 74 CHAPTER 463

AN ACT TO AMEND THE REQUIREMENTS FOR RECEIPT OF SERVICE AND DISABILITY RETIREMENT BENEFITS FROM THE DURHAM FIREMEN'S SUPPLEMENTAL RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Chapter 576, Session Laws of 1951, as amended by Chapters 101 and 1237 of the 1955 Session Laws, Chapter 427 of the 1965 Session Laws, Chapters 66 and 614 of the 1971 Session Laws, and Chapter 701 of the 1973 Session Laws, is further amended by adding new Sections, 4.1, 4.2 and 4.3, to follow Section 4 to read:

"Sec. 4.1. Notwithstanding any other provision of this act and for purposes of this act, a fireman is hereby defined as a person serving the City of Durham as a fireman, fire specialist, or in a fire-related position. Any service not made subject to social security deductions is hereby defined as service as a fireman. Any service made subject to social security deductions is hereby declared not to be service as a fireman and shall not be counted in determining eligibility for supplemental benefits. A fireman may receive supplemental benefits if he retires on a service retirement from the North Carolina Local Governmental Employees' Retirement System and if he has at least 20 years of service with the City of Durham as a fireman as defined in this section. All accumulated sick leave credited to him by the City of Durham shall be counted towards the 20 years of service necessary in order to receive supplemental benefits.

"Sec. 4.2. Notwithstanding any other provision of this act, a fireman who does not meet the requirements of Section 4.1 is eligible to receive supplemental benefits if he retires on disability retirement from the North Carolina Local Governmental Employees' Retirement System, if he is in full-time service as a fireman at the time the disability is incurred, and if he has at least five years' creditable service with the North Carolina Local Governmental Employees' Retirement System at the time the disability is incurred. For purposes of this section, a fireman is anyone who meets the definition of fireman as set out in Section 4.1 of this act.

"Sec. 4.3. Notwithstanding any other provision of this act, any person in receipt of supplemental benefits who meets the requirements of Section 4.1 or Section 4.2 or met the requirements for eligibility to receive benefits at the time of his retirement is hereby declared to be properly in receipt of those benefits and to be entitled to continue receiving supplemental benefits."

Sec. 2. None of the provisions of this act shall create an additional liability for the Durham Firemen's Supplemental Retirement System unless sufficient current assets are available in the system to pay fully for the additional liability.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

S. B. 160 CHAPTER 464

AN ACT TO AMEND THE WINSTON-SALEM FIREMEN'S RETIREMENT FUND ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 388 of the 1973 Session Laws, as amended by Chapter 15 of the 1977 Session Laws, Chapter 284 of the 1979 Session Laws and Chapter 647 of the 1981 Session Laws, is further amended, as follows:

(1) By adding a new subsection (f) to Section 16, to read:

"(f) If a member has been employed by the City of Winston-Salem continuously for a period of 10 years and has any military service, and is not otherwise treated under Section 26 as being in the employment of the City during the period of such military service, the period of such military service shall nevertheless be added to his period of continuous employment with the City upon such member's paying to the Association an amount equal to twelve dollars ($12.00) for each month of such military service plus interest at the rate

of six percent (6%) per annum, compounded annually. Such military service shall be limited to the initial period of active duty in the armed forces of the United States up to the time the member was first eligible to be separated or released therefrom, and subsequent periods of such active duty as required by the armed forces of the United States up to the date of first eligibility for separation or release therefrom. The member must submit evidence satisfactory to the Trustees of the military service claimed. Such election must be made within one year after the member first becomes eligible to contribute for such military service or January 1, 1985, whichever is later. Credit for military service under this subsection shall not be considered service creditable under another retirement system for purposes of North Carolina General Statute Section 128-26(a)."

(2) By rewriting Section 19 to read:

"Sec. 19. Whenever any member of the Association has been employed by the City of Winston-Salem continuously for a period of at least 30 years, such member may make written application to the Trustees for his normal retirement benefit, and whenever any member of the Association has been employed by the City of Winston-Salem continuously for a period of at least 25 years but not more than 30 years, such member may make written application to the Trustees after July 1, 1983, for his early retirement benefit; provided, however, that such member must retire from the service of the City to receive such benefits. The normal and early retirement benefits of such member shall be a monthly pension for the remainder of his life, as provided hereinbelow. For this purpose and for the purpose of Section 20 hereof, a member shall be deemed to have been employed by the City of Winston-Salem continuously if such member shall have been employed continuously by any combination of the Fire Department or Police Department (but only such employment by the Police Department as is described in subsection 16(b) and (c) hereof), and the transfer of a member from the employ of one of such organizations to the employ of the other such organization shall not be deemed to be a termination of employment by the City of Winston-Salem. Provided, that if a member has at least 25 years of employment with the City of Winston-Salem, but such service is not continuous solely because of a leave of absence lasting not more than a year and not described in Section 26, such member shall be deemed to have continuous employment with the City during such leave of absence; and provided further, that if a member has less than 25 years of employment with the City but the sum of his years of employment with the City plus any leave of absence lasting not more than one year and not described in Section 26, equals or exceeds 25 years, the period of such leave shall be deemed to be continuous employment with the City if such member contributes to the Association twelve dollars ($12.00) for each month he was on such leave, plus interest at the rate of six percent (6%) per annum, computed on the amount accrued as of the end of each fiscal year of the Association.

The amount of the monthly pension for each member who is entitled to receive a normal retirement benefit shall be determined in accordance with the following table:

Retirement Date		Monthly Pension
On or After	Before	
	July 1, 1974	$100
July 1, 1974	January 1, 1977	$110

January 1, 1977	July 1, 1981	$135
July 1, 1981	July 1, 1982	$145
July 1, 1982	July 1, 1983	$155
July 1, 1983	July 1, 1984	$165
July 1, 1984	July 1, 1985	$175
July 1, 1985		$185

The amount of the monthly pension for each member who is entitled to receive an early retirement benefit shall be the product of (1) and (2), where (1) is the applicable percentage listed in the following table based on his years of continuous employment at his early retirement date, and (2) is the normal retirement benefit such member would have received if he had retired after 30 years of continuous employment with the City:

Years of Employment at Retirement Date	Percentage of Normal Retirement Benefit
25	85%
26	88%
27	91%
28	94%
29	97%

Payments shall be subject to the provisions of Section 18 of this act."

Sec. 2. None of the provisions of this act shall create an obligation on the part of the Winston-Salem Firemen's Retirement Fund Association to make any payment unless sufficient current assets are available for that purpose.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

S. B. 235 CHAPTER 465

AN ACT TO REINSTATE THE FELONY CHARGE AND PUNISHMENT FOR SECOND ESCAPES AND TO CLARIFY A YOUTHFUL OFFENDER ESCAPE PROVISION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-45(b)(3) is amended by deleting the word "or" following the semicolon.

Sec. 2. G.S. 148-45(b)(4) is amended by changing the period to a semicolon and adding thereafter the word "or".

Sec. 3. G.S. 148-45(b) is amended by adding a new subdivision to read:

"(5) Any person previously convicted of escaping or attempting to escape from the State prison system."

Sec. 4. G.S. 148-45(g)(1) is amended by deleting from the first sentence the phrase: "or any youthful offender granted relief under G.S. 148-49.1 *et seq.*,".

Sec. 5. G.S. 148-45(e) is repealed.

Sec. 6. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

S. B. 248 **CHAPTER 466**

AN ACT TO AMEND CHAPTER 899 OF THE SESSION LAWS OF 1953 RELATING TO INVESTMENTS AND MONTHLY BENEFITS UNDER THE GREENSBORO FIREMEN'S SUPPLEMENTAL RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 899 of the 1953 Session Laws, as amended by Chapter 289 of the 1979 Session Laws, is amended by rewriting subsection (e) to read:

"(e) The board of trustees may invest and deposit funds received under this act in any of those classes of securities, including certificates of deposits, as authorized for local government pursuant to G.S. 159-30."

Sec. 2. Section 4 of Chapter 899 of the 1953 Session Laws, as amended by Chapter 289 of the 1979 Session Laws, is amended by rewriting the second sentence to read:

"On and after July 1, 1983, all firemen of the Greensboro City Fire Department who have attained 30 years of creditable service or who have attained the age of 55 years and who retire from a Local Governmental Employees' Retirement System, including disability retirement, as provided in the system, shall receive a minimum supplemental benefit of twenty-five dollars ($25.00) per month, except that the total amount paid all retired members of the Greensboro City Fire Department shall not exceed 80 percent of the income received by the fund during the preceding fiscal year from interest on investment of capital funds, plus the amount derived from other sources; provided, that firemen who have retired prior to July 1, 1983, and who have not attained 30 years of creditable service or who have not attained the age of 55 years shall receive benefits equal to benefits paid other retired firemen under this retirement system."

Sec. 3. None of the provisions of this act shall create an additional liability for the Greensboro Firemen's Supplemental Retirement System unless sufficient current assets are available in the system to pay fully for the additional liability.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

S. B. 277 **CHAPTER 467**

AN ACT TO CHANGE THE WAITING PERIOD FOR RETIREMENT REFUNDS IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, AND UNIFORM JUDICIAL RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-27(f), G.S. 135-5(f), and G.S. 135-62(a) are amended by deleting in the first sentence the phrase ", not earlier than 60 days from receipt in the Raleigh Offices of the Board of Trustees of an acceptable application on a form provided by the Retirement System," and substituting in

lieu thereof the phrase ", not earlier than 60 days from the date of termination of service,".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

S. B. 293 CHAPTER 468

AN ACT TO AMEND THE LAWS GOVERNING THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND SO AS TO RECEIVE A FAVORABLE DETERMINATION AS A QUALIFIED TRUST BY THE INTERNAL REVENUE SERVICE AND TO THEN CAUSE A TAX SHELTERING FROM CURRENT INCOME OF MEMBERS' CONTRIBUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-166 and G.S. 143-166.01 are amended by deleting the phrase "LAW-ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND" from the title and substituting in lieu thereof the phrase "LAW ENFORCEMENT OFFICERS' RETIREMENT SYSTEM"; by deleting the phrase "Law-Enforcement Officers' Benefit and Retirement Fund" from the captions and substituting in lieu thereof the phrase "Law Enforcement Officers' Retirement System"; by deleting the phrase "Law-Enforcement Officers' Benefit and Retirement Fund" wherever it appears and substituting in lieu thereof the phrase "Law Enforcement Officers' Retirement System"; and, by deleting the phrase "Retirement Fund" wherever it appears and substituting in lieu thereof the phrase "Retirement System".

Sec. 2. G.S. 143-166 and G.S. 143-166.01 are amended by deleting the phrase "Board of Commissioners" wherever it appears and by substituting in lieu thereof the phrase "Board of Trustees".

Sec. 3. G.S. 143-166(a) is rewritten to read:

"(a) A retirement system is established and placed under the administration of a board of trustees for the purpose of providing retirement allowances under the provisions of this section for eligible law enforcement officers, as an employees' trust in conformance with Section 401(a) of the Internal Revenue Code of 1954 as amended. It shall be known as the 'Law Enforcement Officers' Retirement System' and by such name all of its business transacted, its funds invested, and its cash and other property held.

To provide the employer funding of benefits under this section and the death benefits under the employee welfare plan provided in G.S. 143-166.02, there shall be paid (i) contributions of two dollars ($2.00) for each cost of court assessed under G.S. 7A-304 and (ii) contributions by the employers of law enforcement officers to the extent expressly required in annual and biennial appropriation acts or any other acts of the North Carolina General Assembly."

Sec. 4. G.S. 143-166(i) is amended by deleting the first, third and fourth paragraphs thereof.

Sec. 5. G.S. 143-166(q) is amended by deleting the word "section" wherever it appears and substituting in lieu thereof the word "Article".

Sec. 6. G.S. 143-166(r), (s), (t), (u), (v) and (w) are repealed.

Sec. 7. G.S. 143-166(z) is redesignated as a new section designated as G.S. 143-166.02 and is amended by the addition of a new subsection at the end thereof designated as subdivision "(6)" to read:

"(6) Accidental Death Benefit. In addition to all other death benefits provided by this section, there shall be paid an amount from the Plan not to exceed two thousand one hundred dollars ($2,100) in total on account of the death of any law enforcement officer, without regard to membership in the Retirement System, caused by an accident while in the actual performance of duty. In order for this benefit to be paid, the death of the officer must have occurred within one year of the accident and a claim made by the beneficiaries made within one year of the accident and a claim made by the beneficiaries made within one year of the death of the officer. The beneficiaries and amounts payable hereunder are:

a. the sum of one thousand dollars ($1,000) as partial reimbursement for burial expenses payable to the surviving spouse, parent or legal representatives of the officer;
b. the sum of five hundred dollars ($500.00) to the surviving spouse of the officer or, if there is no surviving spouse, the legal representatives of the officer; and
c. the sum of two hundred dollars ($200.00) to each child of the officer who is under the age of 18 years or who is disabled."

Sec. 8. Article 12 of Chapter 143 of the General Statutes is amended by the addition of a new section to read:

"§ 143-166.03. *Special annuity accounts.*—(a) The State and any county, city, town or political subdivision thereof (hereinafter referred to as an employer), and any member, may elect to pay special contributions to be credited to designated individual accounts of members of the Retirement System, in addition to any contributions as otherwise required by this Article, to provide annuities to members payable at retirement and throughout life which are in addition to the basic service and disability retirement allowances under G.S. 143-166(y). Such election by an employer, other than the State, shall be effective only after a written agreement is entered into between an employer and the Board of Trustees of the Retirement System, under conditions as are hereinafter required. The special contributions paid by employers are hereby declared expended as a public purpose.

(b) Contribution Limits and Nondiscrimination. A member may elect to contribute up to but no more than ten percent (10%) of his compensation within any calendar year into an account. An employer may elect to contribute up to but no more than fifteen percent (15%) of a member's compensation within any calendar year into a member's account, reduced by any percentage contributed by the member. Provided, an employer making an election to pay special contributions for members of the Retirement System shall:

(1) pay special contributions for all of their employees who are members of this Retirement System; and
(2) pay identical percentage rates of special contribution for all members.

(c) Benefits. The special contributions credited to the designated individual accounts of members shall accumulate together with such rate of interest as the Board of Trustees may from time to time determine and shall, upon the retirement of a member, provide such additional retirement allowance as the Board of Trustees shall determine on the basis of the tables and rate of interest

last adopted by the Board of Trustees for this purpose. In order that future retirement allowances of members as a result of the special contributions of employers might be determinable, any agreement between an employer and the Board of Trustees shall include the requirements that:

(1) the employer will pay special contributions for minimum periods of 24 consecutive months, but may cease such contributions within said 24 months upon written notice to the Board of Trustees; and

(2) when the employer elects to cease special contributions within said 24 months in (1) above, special contributions may not be resumed by the employer for a period of 12 consecutive months from the month of cessation.

(d) No Reversions to Employers. Upon the death or withdrawal from the Retirement System of a member for whom an employer has paid special contributions, such contributions shall not revert to the employer but shall be redesignated by the employer for the individual accounts of other members.

(e) State Contributions for State-Employed Members. Under all other requirements and conditions herein provided, the State of North Carolina shall contribute to the individual accounts of members who are employed by the State an amount equal to five percent (5%) of the compensation of each such member. The special contributions so paid shall be paid from the same source as a member's compensation and shall be in addition to the State's contributions to fund the basic service and disability retirement allowances provided under the Retirement System.

(f) The provisions of the Retirement System pertaining to administration and management of funds under G.S. 143-166 are hereby made applicable to special annuity accounts."

Sec. 9. Article 12 of Chapter 143 of the General Statutes is amended by the addition of a new section to read:

"§ 143-166.04. *Separate benefit plan.*—(a) One dollar ($1.00) of the sum derived from the cost of court provided for in G.S. 7A-304 shall be set aside and held in a separate fund to be used by the Board of Trustees of the Retirement System to create an employee welfare benefit plan that is separate and apart from the Retirement System and under which coverage shall be provided for:

(1) all law enforcement officers in the State, as defined in G.S. 143-166(m), without regard to whether they are members of this Retirement System; and

(2) all former law enforcement officers in the State, as defined in G.S. 143-166(m), who had 20 or more years of service as an officer or are in receipt of a disability retirement allowance from any State-administered retirement system;

who shall hereinafter be referred to as participants.

(b) Benefits. The Board of Trustees shall promulgate such rules and regulations as are necessary to establish benefits under the plan, within the availability of funds, to provide:

(1) a death benefit payable in a lump-sum to the designated beneficiary of a participant; and

(2) an accident and sickness disability insurance benefit.

(c) Coverage Limits. Benefits payable hereunder shall be payable on account of participants in the plan who have been enrolled as a participant for six or more months or, if an actively employed officer, at any time after enrollment if

death or disability resulted from an accident. If the amounts in the fund are not sufficient at any time to enable the Board of Trustees to pay benefits due participants in full, then an equitably graded percentage of such payments shall be made to participants.

(d) Administration. The Board of Trustees shall provide for benefits under the plan by either creating or participating in a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954 as amended. The provisions of the Retirement System pertaining to administration and management of funds under G.S. 143-166 are hereby made applicable to this plan."

Sec. 10. G.S. 143-166 is amended by the addition of a new subsection immediately after subsection (i) designated as "(i1)" to read:

"(i1) Pick Up of Officer Contributions. Anything within this section to the contrary notwithstanding and pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code of 1954 as amended:

(1) the State shall pick up and pay the contributions which would be payable by State-employed officers as members under subsection (i) of this section with respect to the service of officers after the effective date of this subsection; and

(2) a county, city, town or other political subdivision of the State (hereinafter referred to as 'other employer') may elect to enter into an agreement with the Board of Trustees to pick up and pay the contributions which would be payable by officers employed by other employers as members under subsection (i) of this section with respect to the service of their officers after the effective date of this subsection and after the effective date of such agreements; Provided, this provision to pick up and pay the officers' contributions by other employers shall apply only to such other employers who are participating employers in the Local Governmental Employees' Retirement System or who administer some other employers' trust qualified under Sections 401(a), 403(a) or 405(a) of the Internal Revenue Code of 1954 as amended, and then only if such other employers have elected to pick up and pay employee contributions for all their other employees to the other qualified employees' trust.

The officers' contributions picked up by the State or other employer shall be designated for all purposes of the Retirement System as member contributions, except for the determination of tax upon a distribution from the System. These contributions shall be credited to the Regular Contributions Account and accumulated within the account in a member's account which shall be separately established for the purpose of accounting for picked-up contributions.

Members' contributions picked up by the State or other employer shall be payable from the same source of funds used for the payment of compensation of a member. A deduction shall be made from a member's compensation equal to the amount of his contributions picked up by the State or other employer. This deduction, however, shall not reduce his compensation. Picked-up contributions shall be transmitted to the System monthly for the preceding month by means of a warrant drawn by the State or other employer and payable to the Law Enforcement Officers' Retirement System and shall be accompanied by a schedule of the picked-up contributions on such forms as may be prescribed."

Sec. 11. Sections 1 through 9 of this act are effective upon ratification and Section 10 shall become effective on the first day of any calendar month within 60 days after the filing with the Secretary of State of North Carolina of a favorable letter of determination or ruling from the Internal Revenue Service, United States Department of Treasury, that the Law Enforcement Officers' Retirement System is an employees' trust qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended, but only if such determination letter or ruling is filed by June 30, 1985.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

S. B. 294 CHAPTER 469

AN ACT TO TAX SHELTER FROM CURRENT INCOME THE CONTRIBUTIONS OF MEMBERS PAID TO THE UNIFORM JUDICIAL, SOLICITORIAL AND CLERKS OF SUPERIOR COURT RETIREMENT SYSTEMS BY CONFORMING STATE LAW TO THE REQUIREMENTS OF SECTION 414(h) OF THE UNITED STATES INTERNAL REVENUE CODE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-68 is amended by designating the first sentence thereof as subsection "(a)" and by adding a new subsection designated as "(b)" to read:

"(b) Anything within this Article to the contrary notwithstanding, the State, pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code of 1954 as amended, shall pick up and pay the contributions which would be payable by the members under subsection (a) of this section with respect to the services of such members rendered after the effective date of this subsection.

The members' contributions picked up by the State shall be designated for all purposes of the Retirement System as member contributions, except for the determination of tax upon a distribution from the System. These contributions shall be credited to the annuity savings fund and accumulated within the fund in a member's account which shall be separately established for the purpose of accounting for picked-up contributions.

Member contributions picked up by the State shall be payable from the same source of funds used for the payment of compensation to a member. A deduction shall be made from a member's compensation equal to the amount of his contributions picked up by the State. This deduction, however, shall not reduce a member's compensation as defined in subdivision (5) of G.S. 135-53. Picked up contributions shall be transmitted to the Retirement System monthly for the preceding month by means of a warrant drawn by the State payable to the Retirement System and shall be accompanied by a schedule of the picked-up contributions on such forms as may be prescribed."

Sec. 2. This act shall become effective as to each of the Uniform Judicial, Solicitorial and Clerks of Superior Court Retirement Systems on the first day of any calendar month within 60 days after the filing with the Secretary of State of North Carolina of a favorable letter of determination or ruling from the Internal Revenue Service, United States Department of Treasury, that such System is a trust qualified under Section 401 (a) of the

Internal Revenue Code of 1954 as amended, but only if such determination letter or ruling is filed by June 30, 1985.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

S. B. 403 CHAPTER 470

AN ACT TO REWRITE ARTICLE 15 OF CHAPTER 54 OF THE GENERAL STATUTES PERTAINING TO CORPORATE CREDIT UNIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 15 of Chapter 54 of the General Statutes is rewritten to read:

"ARTICLE 15.

"Corporate Credit Union.

"§ 54-110. *Definition and purposes.*—(a) A corporate credit union may be incorporated under this Article and shall be subject to all parts of this Chapter not inconsistent with this Article.

(b) A corporate credit union is a cooperative nonprofit association whose members consist primarily of other credit unions and whose purposes are:

(1) to accumulate and prudently manage the liquidity of its member credit unions through interlending and investment services;

(2) to act as an intermediary for credit union funds between members and other corporate credit unions;

(3) to obtain liquid funds from other credit union organizations, financial intermediaries, and other sources;

(4) to foster and promote in cooperation with other state, regional, and national corporate credit unions and credit union organizations or associations the economic security, growth and development of member credit unions; and

(5) to perform such other financial services of benefit to its members which are authorized by the Administrator of Credit Unions.

"§ 54-110.1. *Membership.*—(a) Membership in the corporate credit union shall be institutional and be limited to the subscribers to the articles of incorporation, credit unions organized under Chapter 54 of the General Statutes, the Federal Credit Union Act or any other credit union act, organizations or associations of credit unions, and such other persons or organizations provided for in the articles of incorporation unless the bylaws otherwise prescribe.

(b) The board of directors of each credit union, organization or association becoming a member of the corporate credit union shall designate one person to be a voting representative in the corporate credit union. Such voting representatives shall be eligible to hold office in the corporate credit union as if such person were himself a member of the corporate credit union.

"§ 54-110.2. *Charter and name exclusive.*—Only one corporate credit union shall be incorporated under this act; and no other credit union may use the term 'corporate credit union' as a part of its name.

"§ 54-110.3. *Organization.*—(a) Application to form a corporate credit union shall be made in writing to the Administrator of Credit Unions. The application shall contain the names of at least 15 credit unions which have agreed to

subscribe to shares in the corporate credit union at the time the application is made.

(b) The application shall be accompanied by articles of incorporation, bylaws, and articles of association or other appropriate documents.

(c) The bylaws shall provide for the selection of a board of directors of a least five members and shall require credit unions applying for membership to subscribe to shares in a minimum amount as specified in the bylaws.

"§ 54-110.4. *Powers and privileges.*—(a) A corporate credit union shall enjoy the powers and privileges of any other credit union incorporated under Chapter 54 of the General Statutes in addition to those powers enumerated in this Article, notwithstanding any limitations or restrictions found elsewhere in this act.

(b) A corporate credit union may:

(1) accept shares or deposits in any form from its members, other state, regional or national corporate credit unions, and credit union organizations or associations;

(2) make loans to its members and other credit unions and other State, regional or national corporate credit unions, organizations and associations of credit unions;

(3) establish lines of credit for members and participate with other credit unions in making loans to its members under the terms and conditions determined by the board of directors;

(4) invest in the shares of or make deposits in credit unions;

(5) buy and sell any form of marketable debt obligations of domestic or foreign corporations or of federal, state or local government units;

(6) borrow from any source without limitation, accept demand deposits from any source and issue notes or debentures;

(7) acquire or sell the assets and assume the liabilities of a member; and

(8) enter into agreements with credit unions to discount or purchase loans made pursuant to government-guaranteed loan programs, real estate loans made by members or any obligations of the United States or any agency thereof held by members.

(c) A corporate credit union shall not be taxable under any law which shall exempt any other credit union.

(d) The board of directors shall meet at least quarterly and shall have the general direction and control of the affairs of the corporation.

(e) The corporate credit union may exercise such incidental powers or privileges conferred upon a federal corporate credit union.

"§ 54-110.5. *Participation in central system.*—The corporate credit union may enter into agreements for the purpose of participation in any state or federal central liquidity facility or central financial system for credit unions, and for the purpose of aiding credit unions in establishing concentrated lines of credit with other financial institutions and act as a depositor and transmitter of funds to carry out such agreements.

"§ 54-110.6. *Right of set-off; security interest.*—(a) The corporate credit union shall have a right of immediate set-off against the balances of the share and deposit accounts of each member for any amounts due from the member to the corporate credit union.

(b) The corporate credit union shall have a lien on all share and deposit accounts of each member in the amount of the total indebtedness of the

member to the corporate credit union. The lien created herein shall attach to such accounts and be effective whenever the member is indebted to the corporate credit union. The lien shall have priority over any interests of all members and unsecured creditors of the member credit unions of the corporate credit union.

(c) The board of directors or credit committee may require and accept additional security for loans to a member in the form of a pledge, assignment, hypothecation or mortgage of any assets of the member or a guarantor.

"§ 54-110.7. *Fees.*—The operating fees established by the administrator of credit unions shall make allowances for the special purposes and operations of a corporate credit union.

"§ 54-110.8. *Reserves.*—A corporate credit union shall be exempt from the regular reserve requirements of Article 14J, but shall be required to establish and maintain an equity reserve to meet losses, in accordance with regulations prescribed by the Administrator of credit unions.

"§ 54-110.9. *Applicability of Article.*—Nothing in this Article shall be construed as affecting the status of a Central Association formed prior to the enactment of this Article pursuant to former G.S. 54-110. For the purposes of this Article, the corporate credit union authorized by G.S. 54-110.2 shall be the Central Association in existence on the effective date of this Article."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

S. B. 434 CHAPTER 471

AN ACT REGARDING CONFIDENTIAL COMMUNICATIONS BETWEEN PHYSICIAN AND PATIENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 8-53 is amended by changing the period at the end of the first sentence to a comma, and adding the following new language: "and no such information shall be considered public records under G.S. 132-1."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

S. B. 443 CHAPTER 472

AN ACT TO EXTEND FOR TWO YEARS THE TIME FOR COMPLIANCE BY INSURERS WITH THE LAW REGARDING THE AMOUNT OF CAPITAL AND/OR SURPLUS REQUIRED FOR THE FORMATION AND ORGANIZATION OF COMPANIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-77(9) is amended in line 7 by substituting the year "1985" for the year "1983".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.

H. B. 663 **CHAPTER 473**

AN ACT TO REVISE G.S. 47-30.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-30 is rewritten to read:

"§ 47-30. *Plats and subdivisions; mapping requirements.*—(a) Size Requirements. All land plats presented to the Register of Deeds for recording in the registry of a county in North Carolina after January 1, 1984, shall have an outside marginal size of not more than 24 inches by 36 inches, nor less than 8-1/2 inches by 14 inches, and shall include a one-half inch border on each side. Registers of Deeds may require a one and one-half inch border on one side for binding. Where size of land areas, or suitable scale to assure legibility require, plats may be placed on two or more sheets with appropriate match lines. Counties may specify a specific size within the limits of these requirements: Provided, that all Registers of Deeds where a specific size is specified shall be required to submit said size specifications to the North Carolina Association of Registers of Deeds for inclusion on a master list of all such counties. The list shall be posted in each Register of Deeds Office. All counties currently operating under statutes or other laws setting forth regulatory size will be allowed to continue to use such sizes as are currently in use until January 1, 1984, on or before which time they shall modify their size to conform to those shown above.

(b) Plats to be Reproducible. Each plat presented for recording shall be a reproducible plat in linen, film, mylar or other similar, transparent and permanent material and submitted in this form. White prints may be submitted provided the filing officer has access to reproductive facilities to make a permanent master copy thereof by a process from which a direct copy can be made. In any case the process must be such that the public may obtain legible copies. A direct or photographic copy of each recorded plat shall be placed in the plat book or plat file maintained for that purpose and properly indexed for use. All filing officers are authorized to make permanent master copies of plats that have been recorded and filed before January 1, 1984, and may return the originals to the person offering them for recordation.

(c) Information Contained in Title of Plat. The title of each plat shall contain the following information: property designation, name of owner, location to include township, county and state, the date or dates the survey was made; scale in feet per inch or scale ratio in words or figures and bar graph; name and address of surveyor or firm preparing the plat.

(d) Certificate; Form. There shall appear on each plat a certificate by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references shown thereon. The ratio of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate shall be acknowledged before any officer authorized to take acknowledgments by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

The certificate required above shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments and shall be in substantially the following form:

'I, _____, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book ____, page ___, etc.)(other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book ____, page ___; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this ____ day of ____, A.D., 19__.

_____

Seal or Stamp Surveyor

_____

Registration Number'

The certificate of the Notary shall read as follows:

'North Carolina, _____ County.

I, a Notary Public of the County and State aforesaid, certify that _____, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this ____ day of ____, 19__.

_____

Seal-Stamp Notary Public

My commission expires _____.'

(e) Method of Computation. An accurate method of computation shall be used to determine the acreage and ratio of precision shown on the plat. Area by estimation is not acceptable nor is area by planimeter, area by scale, or area copies from another source, except in the case of tracts containing inaccessible sections or areas. In such case the surveyor may make use of aerial photographs or other appropriate aids to determine the acreage of such inaccessible areas when such areas are bounded by natural and visible monuments. The methods used must be fully stated and explained on the face of the plat and all accessible areas of the tract shall remain subject to all applicable standards of this section.

(f) Plat to Contain Specific Information. Every plat shall contain the following specific information:

(1) An accurately positioned north arrow coordinated with any bearings shown on the plat. Indication shall be made as to whether the north index is true, magnetic, North Carolina grid, or is referenced to old deed or plat bearings. If the north index is magnetic or referenced to old deed or plat bearings, the date and the source (if known) such index was originally determined shall be clearly indicated.

(2) The azimuth or courses and distances as surveyed of every line shall be shown. Distances shall be in feet or meters and decimals thereof. The number of decimal places shall be appropriate to the class of survey required.

(3) All plat lines shall be horizontal (level) measurements. All information shown on the plat shall be correctly plotted to the scale shown. Enlargement of portions of a plat are acceptable in the interest of clarity, where shown as inserts on the same sheet. Where the North

Carolina grid system is used the grid factor shall be shown on the face of the plat and a designation as to whether horizontal ground distances or grid distances were used.

(4) Where a boundary is formed by a curved line, the following data must be given: actual survey data from the point of curvature to the point of tangency shall be shown as standard curve data, or as a traverse of bearings and distances around the curve. If standard curve data is used the bearing and distance of the long chord (from point of curvature to point of tangency) must be shown on the face of the plat.

(5) Where a subdivision of land is set out on the plat, all streets and lots shall be carefully plotted with dimension lines indicating widths and all other information pertinent to reestablishing all lines in the field. This shall include bearings and distances sufficient to form a continuous closure of the entire perimeter.

(6) Where control corners have been established in compliance with G.S. 39-32.1, 39-32.2, 39-32.3, and 39-32.4, as amended, the location and pertinent information as required in the reference statute shall be plotted on the plat. All other corners which are marked by monument or natural object shall be so identified on all plats, and all corners of adjacent owners in the boundary lines of the subject tract which are marked by monument or natural object must be shown with a distance from one or more of the subject tract's corners.

(7) The names of adjacent landowners along with lot, block or parcel identifier and subdivision designations or other legal reference where applicable, shall be shown where they could be determined by the surveyor.

(8) All visible and apparent rights-of-way, watercourses, utilities, roadways, and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown.

(9) Where the plat is the result of a survey, one or more corners shall, by a system of azimuths or courses and distances, be accurately tied to and coordinated with a monument of some United States or State Agency survey system, such as the National Geodetic Survey (formerly U.S. Coast and Geodetic Survey) system, where such monument is within 2,000 feet of said corner. Where the North Carolina Grid System coordinates of said monument are on file in the North Carolina Department of Natural Resources and Community Development, the coordinates of the referenced corner shall be computed and shown in X (easting) and Y (northing) ordinates on the map. In the absence of Grid Control, other appropriate natural monuments or landmarks shall be used.

(10) A vicinity map shall appear on the face of the plat.

(g) Recording of Plat. A plat, when proven and probated as provided herein for deeds and other conveyances, when presented for recording, shall be recorded in the plat book or plat file and when so recorded shall be duly indexed. Reference in any instrument hereafter executed to the record of any plat herein authorized shall have the same effect as if the description of the lands as indicated on the record of the plat were set out in the instrument.

(h) Nothing in this section shall be deemed to prevent the filing of any plat prepared by a Registered Land Surveyor but not recorded prior to the death of

the Registered Land Surveyor. For preservation these plats may be filed without notary acknowledgement or probate, in a special plat file.

(i) Nothing in this section shall be deemed to invalidate any instrument or the title thereby conveyed making reference to any recorded plat.

(j) The provisions of this section shall not apply to boundary plats of areas annexed by municipalities nor to plats of municipal boundaries, whether or not required by law to be recorded.

(k) The provisions of this section shall apply to all 100 counties in North Carolina. Where local law is in conflict with this section, the provisions in this section shall apply. Failure of a plat to conform in all requirements of this statute shall be sufficient grounds for the Register of Deeds to refuse to accept the plat for recordation.

(l) The provisions of this section shall not apply to the registration of highway right-of-way plans provided for in G.S. 136-19.4."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 9th day of June, 1983.

H. B. 874 CHAPTER 474

AN ACT TO ALLOW THE CITY OF DURHAM TO COMPLY WITH MINIMUM MINORITY AND/OR WOMEN'S BUSINESS ENTERPRISE PARTICIPATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Durham, being Chapter 671, Session Laws of 1975, is further amended by adding a new section to read:

"Sec. 84.1. Minority or Women's Business Enterprise Requirements. The City Council may establish, agree to and/or comply with minimum minority and/or women's business enterprise participation requirements in projects financed by public funds to ensure equal employment opportunities and/or to redress past discrimination, by including such minimum requirements in the specifications for contracts to perform all or part of such projects and awarding bids pursuant to G.S. 143-129 and G.S. 143-131, if applicable, to the lowest responsible bidder or bidder meeting these and other specifications."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1983.

H. B. 884 CHAPTER 475

AN ACT TO CHANGE THE NAME OF THE GOVERNING BODY OF THE MONROE CITY SCHOOL ADMINISTRATIVE UNIT AND TO PROVIDE THAT THE MONROE CITY AND UNION COUNTY SCHOOL ADMINISTRATIVE UNITS MAY NOT BE MERGED WITHOUT A COUNTYWIDE REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. Section 9 of Chapter 808, Session Laws of 1957, is repealed.

Sec. 2. Chapter 666, Session Laws of 1967, is amended by deleting "Monroe City School Board of Education", "Monroe City Board of Education",

and "Monroe City School Board", whenever those words appear, and inserting in lieu thereof in each place "Monroe Board of Education".

Sec. 3. The name of the board of education for the Monroe City School Administrative Unit is the Monroe Board of Education.

Sec. 4. G.S. 115C-67(8) is rewritten to read:

"(8) A statement that the question of merger, in accordance with the projected plan, is to be contingent upon approval of the voters in the affected area."

Sec. 5. The next to the last paragraph of G.S. 115C-67 is amended by deleting "may be, but it is not required to be" and inserting in lieu thereof "shall be", and by deleting the words "if held".

Sec. 6. The last paragraph of G.S. 115C-67 is amended by deleting the word "or" the second time it appears and inserting in lieu thereof the word "and".

Sec. 7. Sections 4 through 6 of this act shall apply only to the Union County School Administrative Unit and the Monroe City School Administrative Unit.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1983.

H. B. 1126 CHAPTER 476

AN ACT TO EXEMPT THE WESTERN NORTH CAROLINA AGRICULTURAL CENTER FROM G.S. 66-58.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(13c) The Western North Carolina Agricultural Center."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1983.

S. B. 366 CHAPTER 477

AN ACT TO RAISE THE MAXIMUM INTEREST RATE ON LOANS FROM THE STATE LITERARY FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-459, as it appears in Chapter 423, Session Laws of 1981, is amended by deleting "six percent (6%)", and inserting in lieu thereof "eight percent (8%)".

Sec. 2. This act shall become effective with respect to loans made on or after July 1, 1983.

In the General Assembly read three times and ratified, this the 9th day of June, 1983.

S. B. 413 **CHAPTER 478**

AN ACT TO DELETE THE REQUIREMENT THAT COUNTY SUPERINTENDENTS OF SCHOOLS BE APPROVED BY THE STATE BOARD OF EDUCATION AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-271 is amended by deleting from the first sentence of the first paragraph thereof the words "subject to the approval of the Superintendent of Public Instruction and the State Board of Education", by deleting the eighth sentence of the first paragraph and by adding, following the first paragraph, a new paragraph to read:

"It is the policy of the State of North Carolina that the superintendents of each of the several school administrative units be hired solely at the discretion of the local boards of education. However, a candidate for superintendent of a local school administrative unit must meet the minimum educational and experience requirements established by the State Board of Education."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1983.

S. B. 421 **CHAPTER 479**

AN ACT TO MAKE TECHNICAL CHANGES TO THE COMMUNITY COLLEGE LAWS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 115D-2.1(g) is rewritten to read:

"The State Board of Community Colleges shall meet at stated times established by the State Board, but not less frequently than 10 times a year."

Sec. 2. The last sentence of G.S. 115D-2.1(g) is rewritten to read:

"A majority of the qualified members of the State Board shall constitute a quorum for the transaction of business."

Sec. 3. G.S. 115D-2.1 is amended by adding a new subsection to read:

"(h) Whenever any vacancy shall occur in the appointed membership of the State Board, the Chairman shall inform the appropriate appointing authority of the vacancy."

Sec. 4. G.S. 115D-3 is amended by deleting the next to the last sentence which reads:

"The State Board shall appoint an advisory council consisting of at least seven members to advise the State Board on matters relating to personnel, curricula, finance, articulation, and other matters concerning institutional programs and coordination with other educational institutions of the State."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1983.

S. B. 440 CHAPTER 480

AN ACT TO ALLOW THE LINE FOR INCOME TAX CHECKOFF TO THE NORTH CAROLINA ELECTION CAMPAIGN FUND TO APPEAR ANYWHERE ON THE FRONT FACE OF THE RETURN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-159.1(d) is amended by deleting the words "immediately above the signature line".

Sec. 2. This act shall become effective with respect to taxable years beginning on or after January 1, 1983.

In the General Assembly read three times and ratified, this the 9th day of June, 1983.

S. B. 441 CHAPTER 481

AN ACT TO REMOVE THE CEILING ON THE NORTH CAROLINA ELECTION CAMPAIGN FUND SO AS TO ALLOW ALL MONEY DESIGNATED BY TAXPAYERS TO BE USED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-159.1(c) is repealed.

Sec. 2. This act shall become effective with respect to taxable years beginning on or after January 1, 1983.

In the General Assembly read three times and ratified, this the 9th day of June, 1983.

S. B. 494 CHAPTER 482

AN ACT TO REQUIRE UNIFORM SCALE TICKETS FOR GRAIN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-609 is amended by adding the following new paragraph thereto:

"The Board of Agriculture may, by regulation, require the use of, and prescribe the form of a uniform scale ticket by all grain dealers."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day June, 1983.

H. B. 116 CHAPTER 483

AN ACT TO ALLOW THE HEAD OF A LOCAL LAW ENFORCEMENT AGENCY TO APPOINT TRAFFIC CONTROL OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-114.1(a) is amended in the second line by inserting the words, "or traffic control officer" between the words "officer" and "invested".

Sec. 2. G.S. 20-114.1(b) is amended in the first line by inserting between the words, "law enforcement" and "officers" the words, "or traffic control".

Sec. 3. G.S. 20-114.1 is amended by adding two new subsections to read:

"(c) The chief of police of a local or county police department or the sheriff of any county is authorized to appoint traffic control officers, who shall have attained the age of 18 years and who are hereby authorized to direct, control, or

regulate traffic within their respective jurisdictions at times and places specifically designated in writing by the police chief or the sheriff. A traffic control officer, when exercising this authority, must be attired in a distinguishing uniform or jacket indicating that he is a traffic control officer and must possess a valid authorization card issued by the police chief or sheriff who appointed him. Unless an earlier expiration date is specified, an authorization card shall expire two years from the date of its issuance. In order to be appointed as a traffic control officer, a person shall have received at least three hours of training in directing, controlling, or regulating traffic under the supervision of a law enforcement officer. A traffic control officer shall be subject to the rules and regulations of the respective local or county police department or sheriff's office as well as the lawful command of any other law enforcement officer. The appointing police chief or sheriff shall have the right to revoke the appointment of any traffic control officer at any time with or without cause. The appointing police chief or sheriff shall not be held liable for any act or omission of a traffic control officer. A traffic control officer shall not be deemed to be an agent or employee of the respective local or county police department or of the sheriff's office, nor shall he be considered a law enforcement officer except as provided herein. A traffic control officer shall not have nor shall he exercise the power of arrest.

(d) No police chief or sheriff who is authorized to appoint traffic control officers under subsection (c) of this section shall appoint any person to direct, control, or regulate traffic unless there is indemnity against liability of the traffic control officer for wrongful death, bodily injury, or property damage that is proximately caused by the negligence of the traffic control officer while acting within the scope of his duties as a traffic control officer. Such indemnity shall provide a minimum of twenty-five thousand dollars ($25,000) for the death of or bodily injury to one person in any one accident, fifty thousand dollars ($50,000) for the death of or bodily injury to two or more persons in any one accident, and ten thousand dollars ($10,000) for injury to or destruction of property of others in any one accident."

Sec. 4. The provision of this act shall not apply to Cabarrus, Cleveland, Union, and Mecklenburg Counties and incorporated municipalities located therein.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. B. 194 CHAPTER 484

AN ACT TO AMEND THE POWER TO CONFER LAW ENFORCEMENT POWERS ON SPECIAL CONSERVATION OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-138 is rewritten to read as follows:

"§ 113-138. *Enforcement jurisdiction of special conservation officers.*—(a) The Wildlife Resources Commission by regulation may confer law enforcement powers over matters within its jurisdiction with respect to wildlife resources conservation laws and regulations within its jurisdiction upon the employees of the United States Fish and Wildlife Service, and the Marine Fisheries Commission may confer law enforcement powers over matters within its

jurisdiction with respect to marine and estuarine resources conservation laws and regulations upon the employees of the National Marine Fisheries Service, who:

(1) possess special law enforcement jurisdiction that would not otherwise extend to the subject matter of this Subchapter;

(2) are assigned during the duration of such appointment to duty stations within North Carolina; and

(3) take the oath required of public officers before an officer authorized to administer oaths.

These conferred powers do not constitute an appointment of any officer to an additional office.

(b) The Marine Fisheries Commission and Wildlife Resources Commission shall limit the exercise of this authority to situations when:

(1) the best interests of the conservation of marine and estuarine and wildlife resources managed by the respective State and federal agencies are being adversely affected by restrictions upon jurisdictional subject matter that limit law enforcement authority; and

(2) the best interest of the conservation of marine and estuarine and wildlife resources managed by the adopting Commission will benefit by conferring law enforcement authority on the employees of the United States Fish and Wildlife Service or the National Marine Fisheries Service.

(c) The enabling regulation shall specify the particular officers or class of officers upon whom the law enforcement powers are conferred and the geographic areas within which the special enforcement officers can exercise the law enforcement powers over matters within the jurisdiction of the adopting Commission. The conferred powers may be used only during the scope of employment of the special conservation officers.

(d) Unless otherwise provided by the enabling regulation, such special enforcement officers shall have the same jurisdiction and powers with respect to resource conservation and the same rights, privileges and immunities (including those relating to the defense of civil actions and payment of judgments) as the State officers in addition to those the federal officer normally possesses."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. B. 222 CHAPTER 485

AN ACT TO EXPAND THE CIVIL PENALTIES FOR VIOLATIONS OF THE COASTAL AREA MANAGEMENT ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-126(d)(1) is amended by rewriting the portion before the colon to read:

"(1) A civil penalty of not more than two hundred fifty dollars ($250.00) for a minor development violation and two thousand five hundred dollars ($2,500) for a major development violation may be assessed by the Commission against any person who".

Sec. 2. G.S. 113A-126(d)(1) is amended by deleting the last sentence.

Sec. 3. G.S. 113A-126(d)(2) is amended to read:

"(2) For each willful action or failure to act for which a penalty may be assessed under this subsection, the Commission may consider each day the action or inaction continues after notice is given of the violation as a separate violation; a separate penalty may be assessed for each such separate violation."

Sec. 4. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. B. 224 CHAPTER 486

AN ACT TO PERMIT ALL INCORPORATED CITIES WITHIN THE COASTAL AREA TO NOMINATE MEMBERS OF THE COASTAL RESOURCES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The fifth sentence of G.S. 113A-104(d) is amended to read:

"On or before June 1 in every even-numbered year the governing body of each incorporated city within the coastal area shall nominate and transmit to the Governor the name of one person as a nominee to the Commission. In making nominations, the boards of county commissioners and city governing bodies shall give due consideration to the nomination of women and minorities."

Sec. 2. The eighth sentence of G.S. 113A-104(d) is amended by adding before the final period the following:

"; provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean".

Sec. 3. G.S. 113A-104(h) is amended in the second sentence by deleting the words:

"having a population of 2,000 or more and of each incorporated city having a population of less than 2,000 whose corporate boundaries are contiguous with the Atlantic Ocean".

Sec. 4. G.S. 113A-104(h) is amended in the last sentence by adding before the final period the following:

"; provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean".

Sec. 5. G.S. 113A-104 is amended by adding a new subsection to read:

"(k) In making appointments to and filling vacancies upon the Commission, the Governor shall give due consideration to securing appropriate representation of women and minorities."

Sec. 6. G.S. 113A-104 is amended by adding a new subsection to read:

"(l) Regular attendance at Commission meetings is a duty of each member. The Commission shall develop procedures for declaring any seat on the Commission to be vacant upon failure by a member to perform this duty."

Sec. 7. This act is effective upon ratification. Sections 1 through 5 apply only to vacancies in the Coastal Resources Commission arising after ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. B. 624 CHAPTER 487

AN ACT TO REPEAL LOCAL LEGISLATION REGARDING DEER HUNTING IN STOKES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 434 of the 1977 Session Laws is repealed.

Sec. 2. G.S. 113-133.1(e) is amended by deleting the language "Session Laws 1977, Chapter 434;" from the chart entry for Stokes County.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. B. 631 CHAPTER 488

AN ACT RELATING TO THE GRANTING OF SPECIAL USE PERMITS, CONDITIONAL USE PERMITS AND OTHER MATTERS IN MECKLENBURG COUNTY AND THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. The governing bodies of Mecklenburg County and the City of Charlotte, in addition to the authority conferred upon each of them by the General Statutes and local laws, are each hereby empowered to adopt ordinances or amendments to ordinances to provide for the following:

(1) The creation or establishing of a board to hear and decide applications for special use permits and conditional use permits in accordance with rules of procedure which may be adopted by the board of county commissioners or the city council.

(2) Any board established pursuant to the act shall consist of at least three members who shall be selected from the active membership of the Charlotte-Mecklenburg Planning Commission and a quorum shall consist of a majority (but at least three) of the members of the board.

(3) The board of county commissioners and the city council may hear appeals taken from the decisions of the board or boards. Such local appellate review may be either *de novo*, or upon a review of the record established at the hearing before the board which made the decision (with the option of also hearing additional evidence), as established in the ordinances creating such board or boards. However, in the event of one dissenting vote from the decision of the board or boards, the board of county commissioners and the city council shall hear an appeal taken from such decision of the board or boards. Appeals from the decision of the board (where no appeal to the applicable governing body is provided) and appeals from the decision of the applicable governing body (where such an appeal is provided) shall comply with the provisions of G.S. 153A-345(e) and G.S. 160A-388(e).

(4) With respect to special use permits or conditional use permits, the ordinance may classify or establish categories for such permits, with requests for permits under some categories to be heard by the board created pursuant to this act and the requests for permits under other categories to be heard by the board of county commissioners or by the city council.

Sec. 2. This act shall apply to Mecklenburg County and the City of Charlotte only.

Sec. 3. All laws and clauses of law in conflict with this act are hereby repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. B. 787 CHAPTER 489

AN ACT TO AUTHORIZE THE USE OF COMMERCIAL WASTEWATER TREATMENT OPERATION FIRMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90A of the General Statutes is amended by adding a new section to read:

"§ 90A-45. *Commercial wastewater treatment operation firms.*—(a) Every person, firm, or corporation, municipal or private, owning or having control of a wastewater treatment works may contract with a responsible commercial wastewater treatment works operation firm for operational and other services of that firm, and that firm shall designate an employee as the operator in responsible charge. Such designee and other licensed employees of the firm shall be responsible for the total operation and maintenance of the wastewater treatment works. Contractual firms shall not be limited as to the number of facilities, distance between facilities, location of office or residence, frequency of visits, utilization of local persons who are not certified, or other internal management procedures.

(b) Any employee designated by the firm as operator in responsible charge must obtain certification from the Wastewater Treatment Plant Operators Certification Commission and must comply with all of the requirements specified in Chapter 90A and the rules and reasonable standards of the Commission, applicable to all operators in responsible charge, designed to assure satisfactory operation of wastewater facilities."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. B. 847 CHAPTER 490

AN ACT AUTHORIZING THE TOWN OF HOLDEN BEACH TO ASSESS FOR BEACH ACCESSWAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-238 is amended by adding the following language before the period at the end of the first sentence, as amended by H.B. 574, Chapter 440, Session Laws 1979: "or beach accessways.", and by adding the words "and beach accessways" before the period in the caption of that section.

Sec. 2. This act applies to the Town of Holden Beach only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. B. 920 CHAPTER 491

AN ACT TO AUTHORIZE THE DIVISION OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES TO TRANSFER PATIENT OR RESIDENT INFORMATION TO THE DEPARTMENT OF CORRECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-8.1 is amended by adding new subsections (d) and (e) to read:

"(d) Further, notwithstanding the provisions of subsection (a) any treatment facility as defined by G.S. 122-36(g) or by G.S. 122-56.2(b) may furnish information in its possession when requested by the Department of Correction regarding any present or former resident or patient of that treatment facility to the Department of Correction when any inmate is seeking treatment or has been determined to be in need of treatment by the Department of Correction for mental illness, mental retardation or substance abuse. In addition, the Department of Correction may furnish information in its possession about treatment for mental illness, mental retardation or substance abuse which the Department of Correction has provided any present or former inmate to a treatment facility if the inmate is presently seeking treatment from the requesting treatment facility or has been involuntarily committed to the requesting treatment facility for inpatient or outpatient treatment. Under the circumstances described in this subsection, the consent of the patient, resident or inmate shall not be required in order for this information to be so furnished and the information shall be furnished pursuant to such requests despite objection by the patient, resident or inmate. Any information transmitted to the Department of Correction shall be restricted from further disclosure.

(e) Nothing contained in this section shall apply to the records of a patient in a situation where federal statutes, rules or regulations applicable to that patient prohibit the disclosure of information regarding that patient."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. B. 994 CHAPTER 492

AN ACT TO PERMIT THE USE OF HANDGUNS IN TAKING BIG GAME MAMMALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-291.1 is hereby amended by inserting a new subsection (g1) immediately following existing subsection (g) to read as follows:

"(g1) The Wildlife Resources Commission may by regulation prescribe the types of handguns and handgun ammunition that may be used in taking big game animals other than wild turkey. During the regular gun seasons for taking bear, deer and wild boar these animals may be taken with types of handguns and handgun ammunition that shall be approved for such use by the regulations of the Wildlife Resources Commission. The Commission shall not provide any special season for the exclusive use of handguns in taking wildlife."

Sec. 2. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. B. 997 CHAPTER 493

AN ACT TO PROVIDE A METHOD FOR FILLING VACANCIES ON THE WASHINGTON COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-37.1(d) is amended by adding immediately after the word "Wake", the word ", Washington".

Sec. 2. If any vacancy on the Washington County Board of Education is in existence on the effective date of this act, the party executive committee of the vacating member shall have 30 days from the effective date to make a recommendation under G.S. 115C-37.1(b).

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. B. 1086 CHAPTER 494

AN ACT TO ABOLISH THE BOARD OF HUMAN RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. Part 2 of Chapter 143B, G.S. 143B-141, is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

S. B. 83 CHAPTER 495

AN ACT SETTING STANDARDS FOR QUALIFICATION, TRAINING AND EXPERIENCE FOR PERSONS SEEKING TO REPRESENT THEMSELVES TO THE PUBLIC AS CERTIFIED SOCIAL WORKERS: CREATING A STATE BOARD OF EXAMINERS FOR SOCIAL WORKERS: DEFINING THE FUNCTIONS AND DUTIES OF THAT BOARD: AND PROVIDING FOR PENALTIES.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read as follows:

"CHAPTER 90B.

"Social Worker Certification Act.

"§ 90B-1. *Short Title.*—This Chapter shall be known as the 'Social Worker Certification Act'.

"§ 90B-2. *Purpose.*—Since the profession of social work significantly affects the lives of the people of this State, it is the purpose of this act to protect the public by setting standards for qualification, training and experience for those who seek to represent themselves to the public as certified social workers and by promoting high standards of professional performance for those engaged in the practice of social work.

"§ 90B-3. *Definitions.*—(a) 'Board' means the North Carolina Certification Board for Social Work.

(b) 'Social worker' is a person engaging in the public practice of social work who is not a Certified Social Worker, Certified Master Social Worker, Certified Clinical Social Worker or Certified Social Work Manager, as defined in this Chapter.

(c) A person is engaged in the 'public practice of social work' who holds himself or herself out to the public as a social worker and who offers to perform or does perform for other persons, services which involve the application of social work values, principles and techniques in areas such as social work services, consultation and administration, and social work planning and research.

(d) 'Certified Social Worker', 'Certified Master Social Worker', 'Certified Clinical Social Worker', 'Certified Social Work Manager' means a person who is engaged in the practice of social work and who is certified under subparagraphs (b), (c), (d) and (e), respectively, of G.S. 90B-7.

"§ 90B-4. *Prohibitions.*—(a) After January 1, 1984, except as otherwise provided in this Chapter, it is unlawful for any person who is not certified under this Chapter, to represent himself or herself to be certified under this Chapter or hold himself or herself out to the public by any title or description denoting that he or she is certified under this Chapter. Nothing herein shall prohibit school social workers who are certified by the State Board of Education from practicing school social work under the title 'Certified School Social Worker'. Nothing herein shall be construed as prohibiting social workers who are not certified by the N.C. Certification Board for Social Work from practicing social work. Notwithstanding any other provision of law, no agency, institution, board, commission, bureau, department, division, council, member of the Council of State, or officer of the legislative, executive or judicial branches of State government or counties, cities, towns, villages, other municipal corporations, political subdivisions of the State, public authorities, private corporations created by act of the General Assembly or any firm or corporation receiving State funds shall require the obtaining or holding of any certificate issued under this Chapter or the taking of an examination held pursuant to this Chapter as a requirement for obtaining or continuing in employment.

"§ 90B-5. *North Carolina Certification Board for Social Work; appointments; terms; composition.*—For the purpose of carrying out the provisions of this Chapter, there is hereby created the North Carolina Certification Board for Social Work which shall consist of seven members appointed by the Governor in the manner hereinafter prescribed. The Governor may remove any member of the Board for neglect of duty or malfeasance or conviction of a felony or other crime of moral turpitude, but for no other reason.

(1) At least two members of the Board shall be Certified Social Workers except that initial appointees shall be persons who meet the educational and experience requirements for certification as Certified Social Workers under the provisions of this Chapter; two members shall be Certified Clinical Social Workers except that initial appointees shall be persons who meet the educational and experience requirements for certification as Certified Clinical Social Workers under the provisions of this Chapter; and three members shall be appointed from the public at large. Composition of the Board as to the race and sex of its members shall reflect the composition of the population of the State of North Carolina.

(2) At all times the Board shall include at least one member primarily engaged in social work education, at least one member primarily engaged in social work in the public sector, and at least one member primarily engaged in social work in the private sector.

(3) All members of the Board shall be residents of the State of North Carolina, and after the establishment of the initial Board, all members, with the exception of the public members, shall be certified by the Board under the provisions of this Chapter. Professional members of the Board must be actively engaged in the practice of social work or in the education and training of students in social work, and have been for at least three years prior to their appointment to the Board. Such activity during the two years preceding the appointment shall have occurred primarily in this State.

(4) The term of office of each member of the Board shall be three years; provided, however, that of the members first appointed, three shall be appointed for terms of one year, two for terms of two years, and two for terms of three years. No member shall serve more than two consecutive three-year terms.

(5) Each term of service on the Board shall expire on the 30th day of June of the year in which the term expires. As the term of a member expires, the Governor shall make the appointment for a full term, or, if a vacancy occurs for any other reason, for the remainder of the unexpired term.

(6) Members of the Board shall receive compensation for their services and reimbursement for expenses incurred in the performance of duties required by this Chapter, at the rates prescribed in G.S. 93B-5.

(7) The Board may employ, subject to the provisions of Chapter 126 of the General Statutes, the necessary personnel for the performance of its functions, and fix their compensation within the limits of funds available to the Board.

"§ 90B-6. *Functions and duties of the Certification Board.*—(a) The Board shall administer and enforce the provisions of this Chapter.

(b) The Board shall elect from its membership, a chairperson, a vice-chairperson, and secretary-treasurer, and adopt rules to govern its proceedings. A majority of the membership shall constitute a quorum for all Board meetings.

(c) The Board shall examine and pass on the qualifications of all applicants for certificates under this Chapter, and shall issue a certificate to each successful applicant therefor.

(d) The Board may adopt a seal which may be affixed to all certificates issued by the Board.

(e) The Board may authorize expenditures deemed necessary to carry out the provisions of this Chapter from the fees which it collects, but in no event shall expenditures exceed the revenues of the Board during any fiscal year. No State appropriations shall be subject to the administration of the Board.

(f) The Board shall establish and receive fees not to exceed fifty dollars ($50.00) for initial or renewal application, not to exceed one hundred dollars ($100.00) for examination, and not to exceed fifteen dollars ($15.00) for late renewal, maintain Board accounts of all receipts, and make expenditures from Board receipts for any purpose which is reasonable and necessary for the proper performance of its duties under this Chapter.

(g) The Board shall have the power to establish or approve study or training courses and to establish reasonable standards for certification and certificate renewal, including but not limited to the power to adopt or use examination

materials and accreditation standards of the Council on Social Work Education or other recognized accrediting agency and the power to establish reasonable standards for continuing social work education; provided that for certificate renewal no examination shall be required; provided further, that the Board shall not have the power to withhold approval of study or training courses offered by a college or university having a social work program approved by the Council on Social Work Education.

(h) Subject to the provisions of Chapter 150A of the General Statutes, the Board shall have the power to adopt, amend, or rescind rules and regulations to carry out the purposes of this Chapter, including but not limited to the power to adopt ethical and disciplinary standards.

"§ 90B-6.1. *Board general provisions.*—The Board shall be subject to the administrative provisions of Chapter 93B of the General Statutes.

"§ 90B-7. *Titles and qualifications for certificates.*—(a) Each person desiring to obtain a certificate from the Board shall make application to the Board upon such forms and in such manner as the Board shall prescribe, together with the required application fee established by the Board.

(b) The Board shall issue a certificate as 'Certified Social Worker' to an applicant who:

(1) has a bachelor's degree in a social work program from a college or university having a social work program accredited or admitted to candidacy for accreditation by the Council on Social Work Education for undergraduate curricula or has a bachelor's degree in a subject area related to human services and has completed a minimum of 18 semester hours of social work training in a social work program accredited or admitted to candidacy for accreditation by the Council on Social Work Education; and

(2) has passed the Board examination for the certification of persons in this classification.

(c) The Board shall issue a certificate as 'Certified Master Social Worker' to an applicant who:

(1) has a master's or doctor's degree in a social work program from a college or university having a social work program approved by the Council on Social Work Education; and

(2) has passed the Board examination for the certification of persons in this classification.

(d) The Board shall issue a certificate as a 'Certified Clinical Social Worker' to an applicant who:

(1) holds or qualifies for a current certificate as a Certified Master Social Worker; and

(2) shows to the satisfaction of the Board that he or she has had two years of experience in a clinical setting with appropriate supervision in the field of specialization in which the applicant will practice; and

(3) has passed the Board examination for the certification of persons in this classification.

(e) The Board shall issue a certificate as a 'Certified Social Work Manager' to an applicant who:

(1) holds or qualifies for a current certificate as a Certified Social Worker; and

(2) shows to the satisfaction of the Board that he or she has had two years of experience in an administrative setting with appropriate supervision and training; and

(3) has passed the Board examination for the certification of persons in this classification.

"§ 90B-8. *Persons from other jurisdictions.*—The Board may grant a certificate without examination or by special examination to any person who, at the time of application, is certified, registered or licensed as a social worker by a similar board of another country, state, or territory whose certification, registration or licensing standards are substantially equivalent to those required by this Chapter.

"§ 90B-9. *Renewal of certificates.*—(a) All certificates shall be effective upon date of issuance by the Board, and shall expire on the second June 30 thereafter.

(b) All certificates issued hereunder shall be renewed at the times and in the manner provided by this section. At least 45 days prior to expiration of each certificate, the Board shall mail a notice for certificate renewal to the person certified for the current certification period. Prior to the expiration date, the applicant must return the notice properly completed, together with a renewal fee established by the Board and evidence of completion of the continuing education requirements established by the Board under G.S. 90B-6(g), upon receipt of which the Board shall issue to the person to be certified the renewed certificate for the period stated on the certificate.

(c) Any person certified who allows his certificate to lapse for failure to apply for renewal within 45 days after notice shall have his or her certificate automatically suspended, and be subject to a late renewal fee as established pursuant to G.S. 90B-6(f), and if he or she fails to apply for renewal of a certificate within one year after date of such suspension, the certificate shall lapse and may be reissued only upon application as for an original certificate.

(d) Any person certified and desiring to retire temporarily from the practice of social work shall send written notice thereof to the Board. Upon receipt of such notice, his or her name shall be placed upon the nonpracticing list and he or she shall not be subject to payment of renewal fees. In order to renew certification, application for renewal shall be made in ordinary course with a renewal fee for the current period.

"§ 90B-10. *Exemption from academic qualifications.*—Applicants who were engaged in the practice of social work before January 1, 1984, shall be exempt from the academic qualifications required by this act for Certified Social Workers and Certified Social Work Managers and shall be certified upon passing the Board examination and meeting the experience requirements, if any, for certification of persons in that classification.

"§ 90B-11. *Disciplinary procedures.*—The Board may, in accordance with the provisions of Chapter 150A of the General Statutes, refuse to grant or to renew, may suspend, or may revoke the certificate of any person certified under this Chapter on the following grounds:

(1) conviction of a misdemeanor under this Chapter; or

(2) conviction of a felony under the laws of the United States or of any state of the United States; or

(3) gross unprofessional conduct, dishonest practice or incompetence in the practice of social work; or

(4) procuring or attempting to procure a certificate by fraud, deceit, or misrepresentation; or

(5) any fraudulent or dishonest conduct in social work; or

(6) inability of the person to perform the functions for which he or she is certified, or substantial impairment of abilities by reason of physical or mental disability; or

(7) violations of any of the provisions of this Chapter or of rules of the Board.

"§ 90B-12. *Violation a misdemeanor.*—Any person violating any provision of this Chapter is guilty of a misdemeanor and, upon conviction thereof, may be punishable by fine not exceeding two hundred dollars ($200.00) for the first offense and five hundred dollars ($500.00) for each subsequent offense, by imprisonment of not more than six months, or by both such fine and imprisonment.

"§ 90B-13. *Injunction.*—As an additional remedy, the Board may proceed in a superior court to enjoin and restrain any person from violating the prohibitions of this Chapter. The Board shall not be required to post bond in connection with such proceeding."

Sec. 2. Chapter 8 of the General Statutes is amended by adding the following new section:

"§ 8-53.7. *Social worker privilege.*—No person engaged in delivery of private social work services, duly certified pursuant to Chapter 90B of the General Statutes shall be required to disclose any information which he or she may have acquired in rendering professional social services, and which information was necessary to enable him or her to render professional social services: provided, that the presiding judge of a superior or district court may compel such disclosure, if in the court's opinion the same is necessary to a proper administration of justice and such disclosure is not prohibited by other statute or regulation."

Sec. 3. Nothing herein contained shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this act.

Sec. 4. For the purposes of the appointment of the initial Board and of administrative preparation for the implementation of this Chapter, this act shall become effective July 1, 1983. For all other purposes, this act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. B. 72 CHAPTER 496

AN ACT TO PERMIT TRUSTEES OF THE RAEFORD FIREMEN'S RELIEF FUND TO PAY FIREMEN'S CONTRIBUTIONS TO THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 118-7 is amended by adding a new subdivision to read:

"(5) Effective January 1, 1981, to provide payment to the North Carolina Firemen's and Rescue Squad Workers' Pension Fund the amounts required to be paid under G.S. 118-40 on behalf of Raeford firemen who are members of or join that fund. Provided, that the amounts so paid in any year shall not exceed the amount received by the board of trustees from the Insurance Commissioner

pursuant to G.S. 118-5 during the preceding year, plus any earnings upon investments of the Raeford Firemen's Relief Fund received during the preceding year, less the sum of fifty dollars ($50.00). Provided further, that if the amounts authorized to be paid under this subsection are insufficient to pay the amounts required under G.S. 118-40, then the additional amount required to be paid shall be prorated among and paid by Raeford firemen who are members of or are joining the North Carolina Firemen's and Rescue Squad Workers' Pension Fund and who otherwise would have been required to pay to that fund the amounts required under G.S. 118-40."

Sec. 2. This act applies only to the City of Raeford.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 76 CHAPTER 497

AN ACT TO AMEND THE LAW RELATING TO THE KANNAPOLIS FIREMEN'S SUPPLEMENTAL RETIREMENT FUND.

The General Assembly of North Carolina enacts:

Section 1. Section 3(a) of Chapter 408 of the 1971 Session Laws, as amended by Section 1 of Chapter 423 of the 1975 Session Laws, is amended by deleting the phrase "two dollars ($2.00)" and by substituting the phrase "four dollars ($4.00)".

Sec. 2. None of the provisions of this act shall create an additional liability for the Kannapolis Firemen's Supplemental Retirement Fund unless sufficient current assets are available in the Fund to fully pay for the additional liability.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 97 CHAPTER 498

AN ACT TO MAKE CERTAIN CHANGES IN THE ROCKY MOUNT SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN.

The General Assembly of North Carolina enacts:

Section 1. Section 2(a) of Chapter 434 of the 1969 Session Laws is amended by deleting from the end the phrase "six hundred dollars ($600.00)" and by substituting the phrase "eight hundred dollars ($800.00)".

Sec. 2. Section 2(b) of Chapter 434 of the 1969 Session Laws is amended by deleting from the end the phrase "three hundred dollars ($300.00)" and by substituting the phrase "five hundred dollars ($500.00)".

Sec. 3. None of the provisions of this act shall create an additional liability for the Rocky Mount Supplemental Retirement Fund for Firemen unless sufficient current assets are available in the Fund to pay fully for the additional liability.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 156

CHAPTER 499

AN ACT TO RESTORE LANGUAGE REQUIRING LICENSING BOARDS AND ASSOCIATIONS TO PAY FOR HEALTH INSURANCE BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-40.2 is amended by adding a new subsection to read:

"(f) For the support of the benefits made available to any member vested at the time of retirement, their spouses or surviving spouses, and the surviving spouses of employees who are receiving a survivor's alternate benefit under G.S. 135-5(m) of those associations listed in G.S. 135-27(a), licensing and examining boards under G.S. 135-1.1, the North Carolina Art Society, Inc., and the North Carolina Symphony Society, Inc., each association, organization or board shall pay to the Plan the full cost of providing these benefits under this section as determined by the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. In addition, each association, organization or board shall pay to the Plan an amount equal to the cost of the benefits provided under this section to presently retired members of each association, organization or board since such benefits became available at no cost to the retired member."

Sec. 2. This act shall be effective from and after June 23, 1982.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 237

CHAPTER 500

AN ACT TO ALLOW A RESCUE SQUAD WORKER ELIGIBLE FOR MEMBERSHIP IN THE NORTH CAROLINA FIREMEN'S AND RESCUE SQUAD WORKER'S PENSION FUND TO PURCHASE AS MANY AS TWO HUNDRED AND FORTY MONTHS OF PRIOR SERVICE, ON OR BEFORE DECEMBER 31, 1983.

The General Assembly of North Carolina enacts:

Section 1. G.S. 118-41 is amended by rewriting the fourth sentence of the first paragraph to read: "A rescue squad worker who, on the date of the establishment of the fund, has service as a rescue squad worker certified by the Department of State Auditor, may make a lump sum payment of five dollars ($5.00) per month for each month of service as an eligible rescue squad worker as defined by G.S. 118-39, on or before December 31, 1983, for as many as 240 months together with interest at an annual rate of six percent (6%)."

Sec. 2. G.S. 118-42 is amended by rewriting the second sentence of the second paragraph, to read as follows: "No 'eligible rescue squad member' shall receive a pension prior to July 1, 1983."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 330 **CHAPTER 501**

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE TOWN OF VALDESE, AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE TOWN OF VALDESE.

The General Assembly of North Carolina enacts:

Section 1. Supplemental Retirement Fund created. The Board of Trustees of the Valdese Firemen's Relief Fund, hereinafter called the Board of Trustees, as established in accordance with G.S. 118-6, shall create and maintain a separate fund to be called the Valdese Firemen's Supplemental Retirement Fund, hereinafter called the Fund, and shall maintain books of account for the Fund, separate from the books of account of the Firemen's Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund all funds prescribed by this act.

Sec. 2. Transfers and disbursement of Fund. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees shall:

(a) Prior to January 1 of each calendar year, transfer to the Supplemental Retirement Fund all earnings on investments and interest of the Firemen's Relief Fund;

(b) If at any time the amount of funds in the Firemen's Relief Fund be less than twenty-five thousand dollars ($25,000), cease retirement payments from the Supplemental Retirement Fund until a balance of twenty-five thousand dollars ($25,000) is reached, in the Local Firemen's Relief Fund. At this time, the Supplemental Retirement Fund will become active again;

(c) As soon as practical after January 1 of each year, but in no event later than July 1, divide an amount equal to the total income and interest earned in the preceding year on investments of funds belonging to the Firemen's Relief Fund into equal shares and disburse the same as Supplemental Retirement Fund benefits in accordance with Section 3 of this act.

Sec. 3. Supplemental Retirement Fund benefits. The following classes of firemen are eligible for Supplemental Retirement Fund benefits:

(1) Each retired fireman of the Town of Valdese, whether volunteer or paid, who retires from the Valdese Fire Department after having served 20 years or more having reached the age of 55 years. He is entitled to benefits equal to one share for each year of active service and shall receive the benefits in the calendar year following the calendar year in which he retires and in each calendar year thereafter. No single yearly payment shall exceed six hundred dollars ($600.00).

(2) Each fireman of the Town of Valdese, whether volunteer or paid, who becomes permanently and totally disabled to perform the normal duties of an active fireman because of illness or injury incurred elsewhere than in the line of duty and is so certified within 30 days prior to or following his retirement by two physicians licensed to practice in North Carolina.

In the event of an eligible fireman's death during the last quarter of the fiscal year, the beneficiary will receive the next annual payment. At this time payments will cease.

These benefits are to be disbursed by the Treasurer of the Board of Trustees and the Chief of the Valdese Fire Department.

Sec. 4. Disbursement and investment of funds. This act authorizes the disbursement as Supplemental Retirement Fund benefits only of the income and interest derived in any fiscal year from the investments of funds belonging to the Firemen's Relief Fund. Funds paid into the Supplemental Retirement Fund shall be held in trust and no funds paid into the Fund as a gift, grant, bequest or donation to the Fund shall be disbursed except as required by this act.

The Board of Trustees may invest any funds, either of the Firemen's Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by either G.S. 159-30 or G.S. 159-31, and shall invest all of the funds belonging to the Firemen's Relief Fund or the Supplemental Retirement Fund, in one or more investments. No investment in certificates of deposit or time deposits in any bank or trust company, or savings and loan associations, may exceed the amount insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, unless the deposits or investments in shares are secured in the manner provided by G.S. 159-30 or G.S. 159-31.

Sec. 5. Acceptance of gifts. The Board of Trustees is authorized to accept any gift, grant, bequest or donation of money or instruments of value for the use of the Supplemental Retirement Fund.

Sec. 6. Bond of Treasurer. The Board of Trustees shall bond the Treasurer of the Firemen's Relief Fund and the Supplemental Retirement Fund in an amount equal to the amount of the funds in his care and control, payable to the Board of Trustees and conditional upon the faithful performance of his duties. This bond shall be in lieu of the bond required by G.S. 118-6 for the Firemen's Relief Fund. The Board of Trustees may authorize payment of the premiums on the bond from the Supplemental Retirement Fund.

Sec. 7. Application forms. (a) An application form must be properly filled out and approved by the Board of Trustees before any Supplemental Retirement funds may be paid.

(b) In order to arrive at an equitable disbursement for each year, applications shall be submitted to the Chief of the Valdese Fire Department by July 1 of the retirement year and shall note the month of the intended retirement.

(c) If an application is not submitted by time stated in subsection (b) of this section, it will be reviewed by the Board of Trustees at its next annual meeting.

Sec. 8. The provisions of this act may be changed only by three-fourths majority vote of the members of the Valdese Fire Department.

Sec. 9. This act shall apply only to the Town of Valdese.

Sec. 10. All laws and clauses of laws in conflict with this act are repealed.

Sec. 11. None of the provisions of this act shall create a liability for the Valdese Supplemental Retirement System unless sufficient current assets are available in the System to pay fully for the liability.

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 443 **CHAPTER 502**

AN ACT TO EXTINGUISH CERTAIN ANCIENT MINERAL CLAIMS.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 1 of the General Statutes is amended by adding a new section to read:

"§ 1-42.9. *Ancient mineral claims extinguished; oil, gas and mineral interests to be recorded and listed for taxation.*—(a) Where it appears on the public records that the fee simple title to any oil, gas or mineral interests in an area of land has been severed or separated from the surface fee simple ownership of such land and such interest is not in actual course of being mined, drilled, worked or operated, or in the adverse possession of another, and that the record titleholder of any such oil, gas or mineral interests has not listed the same for ad valorem tax purposes in the county in which the same is located for a period of five years prior to January 1, 1983, any person, having the legal capacity to own land in this State, who has on September 1, 1983, an unbroken chain of title of record to the surface estate of the area of land for at least 30 years and provided the surface estate is not in the adverse possession of another, shall be deemed to have a marketable title to the fee estate as provided in the succeeding subsections of this section, subject to the interests and defects as are inherent in the provisions and limitations contained in the muniments of which the chain of record title is formed.

(b) This marketable title shall be held by such person and shall be taken by his successors in interest free and clear. of any and all fee simple oil, gas or mineral interests in the area of land founded upon any reservation or exception contained in an instrument conveying the surface estate in fee simple that was executed or recorded at least 30 years or more prior to September 1, 1983, and such oil, gas or mineral interests are hereby declared to be null and void and of no effect whatever at law or in equity. Provided, however, that any fee simple oil, gas or mineral interest may be preserved and kept effective by recording within two years after September 1, 1983, a notice in writing duly sworn to and subscribed before an official authorized to take probate by G.S. 47-1, which sets forth the nature of the oil, gas or mineral interest and gives the book and page where recorded. This notice shall be probated as required for registration of instruments by G.S. 47-14 and recorded in the office of the register of deeds of the county wherein the area of land, or any part thereof lies, and in the book therein kept or provided under the terms of G.S. 1-42 for the purpose of recording certain severances of surface and subsurface land rights, and shall state the name and address of the claimant and, if known, the name of the surface owner and also contain either such a description of the area of land involved as to make the property readily located thereby or due incorporation by reference of the recorded instrument containing the reservation or exception of such oil, gas or mineral interest. The notice may be made and recorded by the claimant or by any other person acting on behalf of any claimant who is either under a disability, unable to assert a claim on his own behalf, or one of a class but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

(c) This section shall be construed to effect the legislative purpose of facilitating land title transactions by extinguishing certain ancient oil, gas or mineral claims unless preserved by recording as herein provided. The oil, gas or

mineral claims hereby extinguished shall include those of persons whether within or without the State, and whether natural or corporate, but shall exclude governmental claims, State or federal, and all such claims by reason of unexpired oil, gas or mineral releases.

(d) Within two years from September 1, 1983, all oil, gas or mineral interests in lands severed or separated from the surface fee simple ownership and forfeitable under the terms of G.S. 1-42.9(b) must be listed for ad valorem taxes, and notice of this interest must be filed in writing in the manner provided by G.S. 1-42.9(b) and recorded in the local registry in the book provided by G.S. 1-42 to be effective against the surface fee simple owner or creditors, purchasers, heirs or assigns of such owner. Subsurface oil, gas and mineral interests shall be assessed for ad valorem taxes as real property and such taxes shall be collected and foreclosed in the manner authorized by Chapter 105 of the General Statutes of North Carolina.

(e) The board of county commissioners shall publish a notice of this section in a newspaper published in the county or having general circulation in the county once a week for four consecutive weeks prior to September 1, 1983."

Sec. 2. This act shall become effective July 1, 1983. This act does not revive any interest rendered ineffective under the provisions of G.S. 1-42.1 through G.S. 1-42.8.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 497 CHAPTER 503

AN ACT TO AMEND CHAPTER 363 OF THE 1969 SESSION LAWS CONCERNING THE SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF NEWTON.

The General Assembly of North Carolina enacts:

Section 1. Section 3(c) of Chapter 363 of the 1969 Session Laws, as amended by Chapter 298 of the 1981 Session Laws, is amended by substituting the language "two thousand four hundred dollars ($2,400)" for "three hundred dollars ($300.00)".

Sec. 2. Chapter 363 of the 1969 Session Laws, as amended, is further amended by substituting the words "City of Newton" for the word "City", wherever it appears.

Sec. 3. None of the provisions of this act shall create an additional liability for the Newton Firemen's Supplemental Retirement Fund unless sufficient current assets are available in the Fund to pay fully for the additional liability.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 586 **CHAPTER 504**

AN ACT TO AMEND CHAPTER 26 OF THE PRIVATE LAWS OF 1937, AS AMENDED, TO PROVIDE THAT THE FIREMEN'S PENSION FUND OF WILMINGTON SHALL BE ADMINISTERED BY THE PENSION BOARD OF THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of Section 1 of Chapter 26 of the Private Laws of 1937, as rewritten by Chapter 247 of the 1975 Session Laws, is hereby rewritten to read as follows:

"Section 1. The Firemen's Pension Fund of Wilmington, North Carolina, as created by Chapter 26 of the Private Laws of 1937 and laws amendatory thereto, shall be administered by a board to be known as the "Pension Board of the City of Wilmington". Said Board shall consist of five members as follows: the City Manager who will serve as chairman, the Director of Finance who will serve as treasurer, the Director of Personnel who will serve as secretary, an employee who is a member of the Police Pension Fund and an employee who is a member of the Firemen's Pension Fund. At such time that all members of a fund are retired, a retiree from the fund shall serve. All members of the Pension Board shall be appointed by the council of the City. The term of office of the City Manager, Director of Finance and Director of Personnel shall be governed by their terms of office. Resignation of such a member of the Board shall be deemed to have occurred when he ceases to hold office, with the vacancy being filled by his successor. The employee or retiree members shall serve four-year terms, the terms to be staggered each two years. The members of the Board shall receive no compensation for their services.

The Board shall hold meetings upon such notice, at such place or places, and at such times as its members from time to time determine. A majority of the members of the Board at the time in office shall constitute a quorum for the transaction of business. All action taken by the Board at any meeting shall be by vote of the majority of its members present at such meeting; provided, however, the Board may act without a meeting by unanimous action of its members evidenced by a resolution signed by all such members.

During the interim between meetings of the full Pension Board, the Pension Board shall act through an Executive Committee to be composed of: the City Manager, Director of Finance, and Director of Personnel. Action by the Executive Committee shall be deemed that of the Pension Board, subject to Board review at its next meeting. Such action by the Executive Committee shall be by vote of the majority of its members. Provided that, if there is no majority of its members then in office or there is only one member then in office, action shall be by the full Pension Board.

The members of the Pension Board, and each of them, shall be free from all liability, joint or several, for their acts, omissions and conduct, and for the acts, omissions, and conduct of their duly constituted agents, in the administration of the fund, and the City shall indemnify and save them, and each of them, harmless from effects and consequences of their acts, missions, and conduct in their official capacity, except to the extent that such effects and consequences shall result from their own willful misconduct or gross negligence. No member of the Pension Board shall be liable for the acts of any other member of the Pension Board.

The Pension Board may, from time to time, consider and make recommendations for changes to the council of the City of Wilmington, provided no change in the fund shall be submitted or discussed with council of the City in public session prior to a called or regularly scheduled meeting of the Pension Board and submission to and discussion by the Pension Board at least 30 days prior to submission to council."

Sec. 2. Section 2 of Chapter 26 of the Private Laws of 1937, as amended by Chapter 247 of the 1975 Session Laws, is amended by rewriting the first sentence to read:

"That any funds now held by the Pension Board of the Firemen's Pension and Relief Fund of the City of Wilmington, or at the time of the ratification of this act being administered by it, or funds received by the Board of Trustees of the Wilmington Firemen's Relief Fund after ratification of this act shall be paid over by said Trustees to the Treasurer of the Pension Board of the Firemen's Pension Fund of Wilmington, North Carolina, created by this act and by the latter board held, administered, managed, and disbursed under the provisions of this act for the purposes and benefits herein defined."

Sec. 3. Section 2 (2) of Chapter 26 of the Private Laws of 1937, as amended by Chapter 247 of the 1975 Session Laws, is hereby amended to delete the word "Commissioners" and substitute in lieu thereof the word "council".

Sec. 4. Section 2 (3) of Chapter 26 of the Private Laws of 1937, as amended by Chapter 563 of the 1943 Session Laws and by Chapter 247 of the 1975 Session Laws, is hereby amended to delete the second sentence thereof.

Sec. 5. Section 3 of Chapter 26 of the Private Laws of 1937, as amended by Chapter 247 of the 1975 Session Laws, is hereby rewritten to read as follows:

"Sec. 3. That the Pension Board organized as herein provided shall have control over the funds derived from the provisions of this act, and it may continue to receive and require the deposit of them as received, to the credit of said fund, or to invest the same in the Firemen's Pension Fund of Wilmington, North Carolina, in one or more of the investments named in or authorized by either G.S. 159-30 or G.S. 159-31. The said Board may, and it is authorized and empowered to establish such rules and regulations from time to time, for the disposition, investment, preservation, and administration of said fund, not in conflict therewith, as it may deem best."

Sec. 6. Section 4 of Chapter 26 of the Private Laws of 1937, as amended by Chapter 247 of the 1975 Session Laws, is hereby rewritten to read as follows:

"Sec. 4. That the said Pension Board shall make a full report of the status of said fund to the council of the City of Wilmington, a copy to be forwarded to the Chief of the Wilmington Fire Department, at the first regular meeting of said council in January of each year."

Sec. 7. Section 9 of Chapter 26 of the Private Laws of 1937, as amended by Chapter 247 of the 1975 Session Laws, is hereby amended to delete the words "Commissioners of the City of Wilmington are" and substituting in lieu thereof the words "council of the City of Wilmington is".

Sec. 8. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. None of the provisions of this act shall create an additional liability for the Wilmington Firemen's Pension Fund.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 587 CHAPTER 505

AN ACT TO PROVIDE A FIREMEN'S BENEFIT FUND FOR FIREMEN IN THE CITY OF WILMINGTON AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. Firemen's Benefit Fund Created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Wilmington, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Wilmington Firemen's Benefit Fund, hereinafter called the Firemen's Benefit Fund, and shall maintain books of account for such Fund separate from the books of account of the Local Firemen's Relief Fund. The board of trustees shall pay into the Firemen's Benefit Fund the funds prescribed by this act.

Sec. 2. Transfers of Funds and Disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Wilmington shall:

(a) prior to January 1, 1984, and prior to January 1 in each subsequent calendar year, transfer to the Firemen's Benefit Fund all funds (including earnings on investments) belonging to the Local Firemen's Relief Fund in excess of fifteen thousand dollars ($15,000);

(b) at any time when the amount of funds in the Local Firemen's Relief Fund shall, by reason of disbursements authorized by G.S. 118-7, be less than fifteen thousand dollars ($15,000), transfer from Firemen's Benefit Fund to the Local Firemen's Relief Fund an amount sufficient to maintain in the Local Firemen's Relief Fund the sum of fifteen thousand dollars ($15,000);

(c) as soon as practical after January 1 of each calendar year thereafter, but in no event later than July 1, divide funds belonging to the Firemen's Benefit Fund into equal shares and disburse the same as retirement benefits in accordance with Section 3 of this act.

Sec. 3. Firemen's Benefits. Each retired fireman of the City, who is receiving retirement or disability benefits from the Firemen's Pension Fund of Wilmington, North Carolina or the North Carolina Local Governmental Employees' Retirement System, shall be entitled to and shall receive in each calendar year following the calendar year in which he retires the following supplemental retirement benefits: one share for each full year of service as a full-time fireman of the City of Wilmington; provided that the surviving spouse or beneficiary of a fireman who is receiving retirement or disability benefits from the Firemen's Pension Fund of Wilmington, North Carolina or the North Carolina Local Governmental Employees' Retirement System shall be entitled to and shall receive in each calendar year following the calendar year in which the retired fireman dies, the following supplemental benefit: a percent of a share for each full year of service of the employee as a full-time fireman of the

City of Wilmington as determined by the spouse or beneficiary provision of the retirement fund; provided further in no event shall any retired fireman or surviving spouse or beneficiary be entitled to receive in any year an annual supplemental retirement benefit in excess of six hundred dollars ($600.00).

Sec. 4. Investment of Fund. The board of trustees is hereby authorized to invest any funds, either of the Local Firemen's Relief Fund or of the Firemen's Benefit Fund, in any investment named in or authorized by either G.S. 159-30 or G.S. 159-31, and is hereby directed to invest all of the funds belonging to the Firemen's Benefit Fund in one or more such investments; provided, that investment in certificates of deposit or time deposit in any bank or trust company, or in shares of any savings and loan association, shall not exceed the amount insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, unless such deposits or investments in shares are secured in the manner provided by G.S. 159-30 or G.S. 159-31.

Sec. 5. Acceptance of Gifts. The board of trustees may accept any gift, grant, bequest, or donation of money for the use of the Firemen's Benefit Fund.

Sec. 6. Bond of Treasurer. The board of trustees shall bond the treasurer of the Local Firemen's Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the board of trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The board of trustees may pay the premiums for the bond of the treasurer from the Firemen's Benefit Fund.

Sec. 7. Severability. If any provision of this act is declared invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions hereof which can be in effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 8. Repealer. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. None of the provisions of this act shall create a liability for the New Hanover Firemen's Benefit Fund unless sufficient current assets are available in the Fund to pay fully for the liability.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 729 CHAPTER 506

AN ACT TO TAX-SHELTER CONTRIBUTIONS TO THE CHARLOTTE FIREMEN'S RETIREMENT SYSTEM PURSUANT TO SECTION 414(h)(2) OF THE INTERNAL REVENUE CODE AND THEREBY INCREASE THE TAKE-HOME PAY OF EMPLOYEES OF THE FIRE DEPARTMENT OF THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 926 of the 1947 Session Laws, as amended, is further amended by adding the following new sections to read:

"Sec. 7.1. Restrictions. Notwithstanding any provision of this act to the contrary:

(a) No part of the funds contributed to the Retirement System pursuant to this act, or the income thereon, may be used for, or diverted to, purposes other than for the exclusive benefit of members of the Retirement System or their named beneficiaries.

(b) Upon termination of the Retirement System or upon complete discontinuance of contributions to the Retirement System, the rights of all members of the Retirement System to benefits accrued to the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(c) Forfeitures under the Retirement System may not be applied to increase the benefits that any member would otherwise receive under the Retirement System.

(d) Neither the benefits provided by the Retirement System nor the contributions to the Retirement System may exceed the limitations imposed by Section 415 of the Internal Revenue Code of 1954, as amended.

"Sec. 7.2. Pick-Up of Member Contributions. Notwithstanding any provision of this act to the contrary, effective July 1, 1983, the City of Charlotte, as an employer, pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code of 1954, as amended, may elect to pick up and pay the contributions that would be payable by the members of the Retirement System under Section 5 of this act with respect to the service of the members after June 30, 1983.

The members' contributions picked up by the City of Charlotte shall be designated for all purposes of the Retirement System as member contributions, except for the determination of tax upon a distribution from the Retirment System. These contributions shall be credited to the fund created by this act and accumulated within the fund in a member's account that shall be separately established for the purpose of accounting for picked-up contributions.

Member contributions picked up by the City of Charlotte shall be payable from the same source of funds used for the payment of compensation to a member. A deduction shall be made from a member's compensation equal to the amount of his contributions picked up by the City of Charlotte. This deduction, however, shall not reduce his compensation for purposes of the Retirement System. Picked-up contributions shall be transmitted to the Retirement System.

"Sec. 7.3. Conformity of System with Internal Revenue Code Requirements. The City of Charlotte may deviate from the provisions of this act to the extent necessary to make any changes in the system required by the Internal Revenue Service prior to its issuing a favorable determination letter under Section 401(a) and Section 501 (a) of the Internal Revenue Code of 1954, as amended, and as required by the Internal Revenue Service to maintain the qualified status of the Retirement System."

Sec. 2. Section 7.3 of Chapter 926 of the 1947 Session Laws as it appears in Section 1 of this act is effective upon ratification. The remainder of this act shall become effective on the date on which the Retirement System receives a favorable determination letter from the Internal Revenue Service approving the system as a qualified plan under Section 401(a) of the Internal Revenue Code of 1954, as amended, provided the letter is received before June 1, 1984. If a favorable determination letter is not received before June 1, 1984, this act is repealed on that date.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 943 CHAPTER 507

AN ACT TO PROHIBIT THE CONTAMINATION OR ADULTERATION OR OTHER INTENTIONAL TAMPERING WITH THE PUBLIC WATER SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes of North Carolina is amended to add a new section as follows:

"§ 14-150. *Contaminating a public water system.*—(a) A person commits the offense of contaminating a public water system, as defined in G.S. 130-166.41(12), if he willfully or wantonly:

(1) Contaminates, adulterates or otherwise impurifies or attempts to contaminate, adulterate or otherwise impurify the water in a public water system, including the water source, with any toxic chemical, biological agent or radiological substance that is harmful to human health, except those added in approved concentrations for water treatment operations; or

(2) Damages or tampers with the property or equipment of a public water system with the intent to impair the services of the public water system.

(b) Any person who commits the offense defined in this section is guilty of a Class I felony."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 989 CHAPTER 508

AN ACT TO MAKE UNLAWFUL THE UNAUTHORIZED RECONNECTION OF A LAWFULLY DISCONNECTED UTILITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-151.1 is amended by inserting in the heading of that statute between the semicolon and the word "*civil*" the phrase "*unlawful reconnection of electricity, gas, or water;*".

Sec. 2. G.S. 14-151.1 is further amended by adding a new subsection to read:

"(b1) It is unlawful for any unauthorized person to reconnect electricity, gas, or water connections or otherwise turn back on one or more of those utilities when they have been lawfully disconnected or turned off by the provider of the utility."

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 965 CHAPTER 509

AN ACT MAKING TECHNICAL AMENDMENTS TO THE PRIVATE PLACEMENT EXEMPTION FOR SECURITIES OFFERINGS AND ALLOWING THE SECRETARY OF STATE TO ESTABLISH LIMITED OFFERING EXEMPTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 78A-17(9) is rewritten to read:

"(9) Any transaction pursuant to an offer directed by the offeror to not more than 25 persons, other than those persons designated in subdivision (8), in this State during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this State, if the seller reasonably believes that all the buyers in this State are purchasing for investment. The Administrator may by rule or order withdraw, amend, or further condition this exemption for any security or security transaction and establish a fee to recover costs for any filing required, not to exceed one hundred fifty dollars ($150.00)."

Sec. 2. G.S. 78A-17 is amended by adding a new subdivision to read:

"(17) Any transaction that is exempt pursuant to rules established by the Administrator creating limited offering transactional exemptions that are consistent with the objectives of compatibility with federal limited offering exemptions and uniformity among the states. The Administrator may establish a fee to recover costs for any filing required by such rules, not to exceed one hundred fifty dollars ($150.00)."

Sec. 3. Sections 2 and 3 of this act shall become effective July 1, 1983. Section 1 of this act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 999 CHAPTER 510

AN ACT TO CLARIFY THE SALES AND USE TAX TREATMENT OF CERTAIN COMPUTER PROGRAMS USED BY TELEPHONE COMPANIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(1)i. is rewritten to read:

"i. Sales of central office equipment and switchboard and private branch exchange equipment to telephone companies regularly engaged in providing telephone service to subscribers on a commmercial basis, and sales to these companies of prewritten computer programs used in providing telephone service to their subscribers."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 1049 CHAPTER 511

AN ACT TO ALLOW CITIES AND COUNTIES TO LEVY PROPERTY TAXES FOR INDUSTRIAL DEVELOPMENT AND ECONOMIC DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-149(c) is amended by adding a new subdivision to read:

"(10b) Economic Development. To provide for economic development as authorized by G.S. 158-12."

Sec. 2. G.S. 153A-149(c) is amended by adding a new subdivision to read:

"(16a) Industrial Development. To provide for industrial development as authorized by G.S. 158-7.1."

Sec. 3. G.S. 160A-209(c) is amended by adding a new subdivision to read:

"(10b) Economic Development. To provide for economic development as authorized by G.S. 158-12."

Sec. 4. G.S. 160A-209(c) is amended by adding a new subdivision to read:

"(17a) Industrial Development. To provide for industrial development as authorized by G.S. 158-7.1."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 1066 CHAPTER 512

AN ACT TO CORRECT OBSOLETE REFERENCES IN THE TERMINATION OF PARENTAL RIGHTS LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-289.32(2), as it appears in Volume 1B of the North Carolina General Statutes, is hereby amended by deleting "G.S. 110-117(1)(a), (b) or (c)" and substituting in lieu thereof "G.S. 7A-517(1)" and is also amended by deleting "G.S. 7A-278(4)" and substituting in lieu thereof "G.S. 7A-517(21)".

Sec. 2. This act shall be effective immediately upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 1077 CHAPTER 513

AN ACT TO SET FORTH THE PROCEDURE TO SUPPRESS A PRIOR CONVICTION OBTAINED IN VIOLATION OF THE RIGHT TO COUNSEL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes is amended to add in Article 53 a new section to read as follows:

"§ 15A-980. *Right to suppress use of certain prior convictions obtained in violation of right to counsel.*—(a) A defendant has the right to suppress the use of a prior conviction that was obtained in violation of his right to counsel if its use by the State is to impeach the defendant or if its use will:

(1) increase the degree of crime of which the defendant would be guilty; or

(2) result in a sentence of imprisonment that otherwise would not be imposed; or

(3) result in a lengthened sentence of imprisonment.

(b) A defendant who has grounds to suppress the use of a conviction in evidence at a trial or other proceeding as set forth in (a) must do so by motion made in accordance with the procedure in this Article. A defendant waives his right to suppress use of a prior conviction if he does not move to suppress it.

(c) When a defendant has moved to suppress use of a prior conviction under the terms of subsection (a), he has the burden of proving by the preponderance of the evidence that the conviction was obtained in violation of his right to counsel. To prevail, he must prove that at the time of the conviction he was indigent, had no counsel, and had not waived his right to counsel. If the defendant proves that a prior conviction was obtained in violation of his right to counsel, the judge must suppress use of the conviction at trial or in any other proceeding if its use will contravene the provisions of subsection (a)."

Sec. 2. The codification note under Article 54 of Chapter 15A of the General Statutes is rewritten to read:

"§ 15A-981 to 15A-990: Reserved for future codification purposes."

Sec. 3. G.S. 15A-1334 is amended by rewriting subsection (d) and adding a new subsection (e) to read as follows:

"(d) Sentencing in Capital Cases. Sentencing in capital cases is governed by Article 100 of this Chapter.

(e) Procedure Applicable when Certain Prior Convictions May Be Used. The procedure in G.S. 15A-980 governs if the State seeks to use a prior conviction in a sentencing hearing."

Sec. 4. G.S. 15A-1340.4(e) is amended to delete from the fourth sentence the words "pursuant to Article 53 of this Chapter" and to substitute "pursuant to G.S. 15A-980".

Sec. 5. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

S. B. 385 CHAPTER 514

AN ACT TO INCORPORATE THE VILLAGE OF MARVIN IN UNION COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The following provisions of law shall constitute the Charter of the Village of Marvin in Union County:

"THE CHARTER OF THE VILLAGE OF MARVIN.

"Chapter I.

"Incorporation and Corporate Powers.

"Section 1.1. *Incorporation and Corporate Powers.* The inhabitants of the Village of Marvin, which area is described in Section 2.1 below are a body corporate and politic under the name 'Village of Marvin'.

Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed upon cities by the general law of North Carolina.

"Chapter II.

"Corporate Boundaries.

"ARTICLE I.

"Village Boundaries.

"Sec. 2.1. *Village Boundaries.* Until modified in accordance with law, the boundaries of the Village of Marvin are as follows:

BEGINNING at a point in the North Carolina-South Carolina State Line in the center line of Six Mile Creek, said point also being corner of the Union County-Mecklenburg County line, thence in a northeasterly direction with the meanderings of Six Mile Creek to a point in the center line of Six Mile Creek, said point being a northeast corner of the J. S. Kerr property, thence with the J. S. Kerr property as shown in Deed Book 224 page 404. S 31° 45' E 1192 ft to an iron stake thence continuing with the J. S. Kerr property N 46° 30' E 850 ft to an iron stake, thence S 15° E 1123 ft to an iron stake being a corner of J. S. Kerr and Roger R. Regelbrugge, thence with the Roger R. Regelbrugge property as described in Deed Book 338 page 241, S 14° 49' E 861.75 ft to a point common corner of the Guilmont Development Co. property and the J. L. Crist, Jr. property, thence S 17° 02' 50" E 1178.53 ft to a point, a corner of the Sam W. Craver property, thence with Sam W. Craver property as described in Deed Book 337 page 771 S 34° 23' E 2239 ft to a corner of Allen D. Carter, thence with the Allen D. Carter line as described in Deed Book 216 page 624 S 34° 23' E 362.6 ft to an iron pin on the south side of NCSR No. 1316 common corner of Allen D. Carter and Harry F. Short thence with Allen D. Carter line as described in Deed Book 244 page 799 and the S. R. Yarborough line as described in Deed Book 336 page 376 S 32° 52' W 716.L ft to a 30" hickory, common corner of S. R. Yarbrough and William C. and Linda W. James thence with the William C. James line as described in Deed Book 322 page 106 S 2° 12' 20" W 1267 ft to an iron by 30" pine in the line of Cecile Reese Stephenson and William H. Stephenson thence with the Cecile Reese Stephenson and William H. Stephenson line as described in Deed Book 192 Page 587 S 86° 25' E 160 ft to an iron, thence continuing with the said Cecile Reese and William H. Stephenson line S 19° 22' E 1534.6 ft to an iron and stones in a post oak stump thence continuing with the said Cecile Reese and William H. Stephenson line S 64° 38" E 783 ft to a point in the center line of NCSR No. 1309 (Crane Road) then in a southerly direction with the center line of NCSR No. 1309 (Crane Road) to a point in the center line of the intersection of said road and NCSR 1307 (Waxhaw-Marvin Road and Bonds Grove Church Road) thence continuing with NCSR No. 1307 in a northeasterly direction with the center line of NCSR 1307 to a point in the center line of the road at the James Q. Wray, Jr. and Hugh L. Miller corner, thence with the James Q. Wray, Jr. line as described in Deed Book 281 page 399 S 73° 23' 20" E 808.91 ft to an old iron, a common corner of Hugh L. Miller and Joe S. Houston, thence continuing with the James Q. Wray, Jr. line S 74° 31' E 1557.91 ft to an old iron, thence continuing with the James Q. Wray, Jr. line S 7° 10' 50" W 545.78 ft to an old iron thence continuing with the said James Q. Wray, Jr. line S 86° 28' 10" E 648.57 ft to stones, a common corner of Thomas E. Cook and E. W. Dunning (now or formerly) thence continuing with the James Q. Wray, Jr. line S 86° 42' 40" E 557.98 ft to an old iron. James Q. Wray, Jr. corner as shown on a plat of Vahalla Farms Subdivision (section two) as recorded in Plat Cabinet A, File No. 118-A thence with the northern line of said plat S 87° 41' 30" E 753.13 ft to an old iron pipe, thence continuing with said plat S 88° 20' 15" E 337.06 to an Ash Tree, thence continuing with said plat 20° 49' 20" E 555.17 ft to a stone thence

continuing with said plat S 2° 49.40' E 472.21 ft to an old iron pipe, a corner of Erlene S. Brandon, thence with the Erlene S. Brandon line S 3° 15' W 180 ft more or less to a point in the center line of NCSR No. 1360 (Grey Byrum Rd.) thence with the center line of NCSR 1306 in a westerly direction to a point in the center of the intersection with NCSR 1301 (Waxhaw-Marvin Road) thence with the center line of NCSR No. 1301 in a northwesterly direction to a point in the center line of the road, said point or place being described in Deed Book 301 page 324, also the southeasterly corner of Tract 17 of Providence Road Estates, as shown on a plat therefore recorded in Plat Cabinet No. A, File No. 87A, Union County Public Registry, and runs thence from said point with the center line of Marvin-Waxhaw Road and following courses and distances: (1) S. 19-22 E 100.0 ft to a point; (2) S 27-36-13 E. 100.0 ft to a point; (3) S 31-59-37 E 100.0 ft to a point (4) S 33-35-32 E. 100.0 ft to a point; (5) S 34-04 E 100.0 ft to a point (6) S 35-03-36 E 100.0 ft to a point (7) S 37-16-18 E 100.0 ft to a point (8) S 41-07-39 E 100.0 ft to a point (9) 43-34-55 E 100.0 ft to a point; and (10) 44-53-59 E 206.74 ft to a point in said center line of said road; thence with the line of Haywood S 11-39-32 W 659.34 ft to an old iron; thence with the line of Hartis S 12-04-18 W 523.48 ft to an old iron; thence with the line of Spencer S 12-03-24 W 757.26 ft to an old iron; thence with the line of C. L. Haywood S 12-09-21 W 1695.35 ft to an old iron; thence with the line of the Charlotte Rifle & Pistol Club S 86-17-38 W 3310.59 ft to an old iron located on the North Carolina-South Carolina State Line thence in a northwesterly direction with said North Carolina-South Carolina State Line to the BEGINNING.

"Chapter III.

"Governing Body.

"Sec. 3.1. *Structure of Governing Body; Number of Members.* The governing body of the Village of Marvin is the Village Council, which has four members, and the Mayor.

"Sec. 3.2. *Manner of Electing Village Council.* The Village has one electoral district and this district is represented by members of the Council which will be elected at large. The qualified voters of the entire Village elect the members of the Council. To be eligible for election to the Council and for service on the Council, a person must reside in the district.

"Sec. 3.3. *Term of Office of Town Council.* Members of the Council are elected to two-year terms.

"Sec. 3.4. *Manner of Electing Mayor; Term of Office.* The qualified voters of the entire village elect the Mayor. He is elected to a two-year term of office.

"Chapter IV.

"Elections.

"Sec. 4.1. *Conduct of Village Elections.* Village Officers shall be elected on a nonpartisan basis and the results determined by a plurality as provided in North Carolina General Statutes 163-292.

"Chapter V.

"Administration.

"Sec. 5.1. *Village to Operate Under Mayor-Council Plan.* The Village of Marvin operates under the Mayor-Council plan as provided in General Statutes Chapter 160A, Article 7, Part 3.

"Chapter VI.

"Finance.

"Sec. 6.1. *Taxation.* The territory within the corporate limits and its citizens and property, shall be subject to municipal taxes levied by the Village when taxes are deemed necessary."

Sec. 2. The Union County Tax Supervisor shall provide upon request, a record of property within the corporate limits, which property was listed for taxation as of January 1, 1984.

Sec. 3. Interim budget. The Village Council may adopt a budget ordinance for the 1984-85 fiscal year, following their qualifications for office, without having to comply with the budget preparation and adoption timetable set out in the Local Government Budget and Fiscal Control Act. If the initial budget is adopted after November 1, 1984, then taxes may be paid at par on face amounts within 90 days of adoption of the budget, and thereafter according to the schedule in G.S. 105-360 as if the taxes had been due on September 1, 1984.

Sec. 4. Special election for approval. (a) If a petition signed by forty percent (40%) of the registered voters within the proposed corporate limits of the Village of Marvin petition the Union County Board of Commissioners on or before November 1, 1983, to hold an election on incorporation of the Village of Marvin, the Board of Elections of Union County is hereby authorized and directed to call and conduct a special election on a date to be set by the Union County Board of Commissioners not earlier than the day of the 1984 primary under G.S. 163-1(b) but not later than the date of the 1984 general election under G.S. 163-1(c) for the purpose of submitting to the qualified voters of the area heretofore described as the proposed corporate limits of the Village of Marvin, the question of whether or not such area shall be incorporated as a municipal corporation known as the Village of Marvin. The Union County Board of Commissioners shall act on or before December 1, 1983, to set the date. In conducting the election required to be held by this act, the Board of Elections of Union County shall follow the procedures contained in G.S. 163-288.2, in this act, and the procedures contained in Chapter 163 of the General Statutes regarding municipal elections, where the same are not in conflict with this act.

(b) In the special election, the form of the ballot shall be:

"☐ FOR Incorporation of the Village of Marvin.

☐ AGAINST Incorporation of the Village of Marvin."

Sec. 5. If the majority of the votes cast in the special election shall not be cast "FOR Incorporation of the Village of Marvin", or if no election is held because a valid petition under Section 4 of this act is not submitted, then the Charter of the Village of Marvin, as set forth in Sections 1 through 3 of this act, shall have no force and effect.

Sec. 6. If a majority of the votes cast in the special election shall be cast "FOR Incorporation of the Village of Marvin", then the Charter of the Village of Marvin, as set forth in Sections 1 through 3 of this act, shall be in full force and effect from and after the date upon which a certificate of election shall have been issued by the Chairman of the Union County Board of Elections in accordance with the procedures of G.S. 163-301.

Sec. 7. At the same time as the referendum held under Section 4 of this act, but only if such a referendum is held, the Union County Board of Elections shall hold an election for the initial Mayor and Village Council, to serve until the 1985 municipal election; provided, that if the majority of votes shall not be

cast "FOR Incorporation of the Village of Marvin", the election of officers is null and void. The Union County Board of Elections shall adopt a special schedule of candidate filing for the election, after consulting with the State Board of Elections.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

S. B. 91 CHAPTER 515

AN ACT TO PROVIDE THAT ALL OCCUPATIONAL LICENSING BOARDS MAY RECEIVE THE INTEREST ON FUNDS DEPOSITED BY THEM WITH THE STATE TREASURER FOR INVESTMENT.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 147-69.3(b) is amended by adding the following new language immediately before the period:

", provided that any occupational licensing board as defined in G.S. 93B-1 may participate in one of the investment programs established pursuant to this section regardless of whether or not the funds were required by law to be deposited with and invested by the State Treasurer".

Sec. 2. Chapter 93B of the General Statutes is amended by adding a new section to read:

"§ 93B-11. *Interest from State Treasurer's Investment Program.*—Any interest earned by an occupational licensing board under G.S. 147-69.3(d) may be used only for the following purposes:

(1) To reduce fees;

(2) Improve services offered to licensees and the public; or

(3) For educational purposes to benefit licensees or the public."

Sec. 3. Section 1 of this act is effective from and after July 1, 1983. Section 2 of this act is effective with respect to any interest credited on or after ratification of this act.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

S. B. 289 CHAPTER 516

AN ACT DESIGNATING THE OFFICE OF STATE PERSONNEL AND THE STATE PERSONNEL COMMISSION AS THE DEFERRAL AGENCY FOR EEOC COMPLAINTS.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"§ 126-40. *Section 706 deferral agency.*—The Office of State Personnel and the State Personnel Commission are designated the official deferral agency under Section 706 of the Civil Rights Act of 1964 for all charges filed on a timely basis with the Equal Employment Opportunity Commission by any State or local government employee subject to this Chapter. The Office of State Personnel and the State Personnel Commission have no jurisdiction or authority to accept deferral of any charge filed by any employee exempted, in

whole or in part, from coverage of this Chapter by G.S. 126-5(b), (c), (d)(2), (d)(3), or (d)(4)."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 949 CHAPTER 517

AN ACT TO AMEND G.S. 14-269.1 CONCERNING DISPOSITION OF DEADLY WEAPONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-269.1 is amended by adding a new subdivision to read:

"(5) By ordering such weapon turned over to the North Carolina State Bureau of Investigation's Crime Laboratory Weapons Reference Library for official use by that Agency. The State Bureau of Investigation shall maintain a record and inventory of all such weapons received."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

S. B. 266 CHAPTER 518

AN ACT TO CLARIFY AND SIMPLIFY THE COASTAL AREA MANAGEMENT ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-113(b)(2) is rewritten to read:

"(2) Estuarine waters, that is, all the water of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers, and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters, as set forth in the most recent official published agreement adopted by the Wildlife Resources Commission and the Department of Natural Resources and Community Development;".

Sec. 2. G.S. 113A-114 is repealed.

Sec. 3. G.S. 113A-118(d)(1), as it appears in the 1978 Replacement Volume 3A, Part II, is amended on the seventh line by deleting the words and punctuation "or the North Carolina Sedimentation Control Board," and substituting therefor the words and punctuation "the North Carolina Sedimentation Control Board, or any federal agency or authority;".

Sec. 4. G.S. 113A-120(a)(5), as it appears in the 1978 Replacement Volume 3A, Part II, is amended on the first line by deleting the citation "G.S. 113A-113(4)" and substituting therefor the citation "G.S. 113A-113(b)(5)."

Sec. 5. G.S. 113A-120(b), is amended by rewriting the second sentence to read:

"The permit may be conditioned upon the applicant's amending his proposal to take whatever measures or agreeing to carry out whatever terms of operation or use of the development that are reasonably necessary to protect the public interest with respect to the factors enumerated in subsection (a) of this section."

Sec. 6. G.S. 113A-126(d)(3), as it appears in the 1978 Replacement Volume 3A, Part II, is amended on the fourteenth line by deleting the citation "G.S. 143-315" and substituting therefor the citation "G.S. 150A-43 *et seq.*"

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

S. B. 418 CHAPTER 519

AN ACT TO AMEND THE LAW REGARDING THE USE OF PUBLIC BUILDINGS TO REFLECT THAT POLITICAL PARTIES NOW HOLD ANNUAL MEETINGS, AND TO RESTRICT USE ONLY IF IT INTERFERES WITH SCHOOL FUNCTIONS AND ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-527 and G.S. 163-99 are each amended by deleting the word "biennial", and inserting in lieu thereof the word "annual or biennial".

Sec. 2. G.S. 115C-527 and G.S. 163-99 are each amended by deleting the words "in such buildings", and inserting in lieu thereof "in such school buildings".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

H. B. 1092 CHAPTER 520

AN ACT TO PROVIDE A GOOD SAMARITAN STATUTE FOR RURAL FIRE DEPARTMENTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 69 of the General Statutes is amended by adding a new section to read:

"§ 69-39.1. *Liability limited.*—(a) For the purpose of this section, a rural fire department means a bona fide fire department incorporated as a nonprofit corporation which under schedules filed with or approved by the Commissioner of Insurance, is classified as not less than class '9' in accordance with rating methods, schedules, classifications, underwriting rules, bylaws, or regulations effective or applied with respect to the establishment of rates or premiums used or charged pursuant to Article 12B or Article 13C of Chapter 58 of the General Statutes and which operates fire apparatus of the value of five thousand dollars ($5,000) or more.

(b) A rural fire department or a fireman who belongs to the department shall not be liable for damages to persons or property alleged to have been sustained and alleged to have occurred by reason of an act or omission, either of the rural fire department or of the fireman at the scene of a reported fire, when that act or omission relates to the suppression of the reported fire by the department or the fireman unless it is established that the damage occurred because of gross negligence, wanton conduct or intentional wrongdoing of the rural fire department or the fireman."

Sec. 2. The caption of Article 5 of Chapter 69 of the General Statutes is rewritten to read: "Authority and Liability of Firemen."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1983.

S. B. 259 CHAPTER 521

AN ACT TO AMEND G.S. 20-7.1 RELATING TO CHANGE OF ADDRESS ON OPERATOR'S LICENSE, LEARNER'S PERMITS AND SPECIAL IDENTIFICATION CARDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-7.1 is amended by adding the following proviso at the end:

"Provided, that if the licensee's mailing address has been changed by governmental action and there has been no actual change of residence location, upon giving notice in writing to the Division of Motor Vehicles in Raleigh within 60 days of this change of address, the licensee may use his current license or permit until its expiration or obtain a duplicate license or permit showing the new address upon payment of the required fee. No person shall be charged with having violated this section when only his mailing address has been changed by governmental action."

Sec. 2. Article 2B of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-37.9. *Notification of change of address.*—Whenever the holder of a special identification card issued under the provisions of G.S. 20-37.7 has a change in the address as shown on such special identification card, he or she shall apply for reissuance of a special identification card within 60 days after the address has been changed. The fee for reissuance of the special identification card shall be five dollars ($5.00). Provided that in those instances in which the change of address is through governmental action and there is no actual change of geographical location, no change of address on the card shall be required until the expiration thereof or reissuance is applied for by the holder thereof."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1983.

S. B. 279 CHAPTER 522

AN ACT TO PROHIBIT DISCRIMINATION IN HOUSING.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are amended to add a new Chapter 41A to read as follows:

"CHAPTER 41A.

"State Fair Housing Act.

"§ 41A-1. *Title.*—This Chapter shall be known and may be cited as the State Fair Housing Act.

"§ 41A-2. *Purpose.*—The purpose of this act is to provide fair housing throughout the State of North Carolina.

"§ 41A-3. *Definitions.*—For the purposes of this Chapter, the following definitions apply:

(1) The 'Council' means the North Carolina Human Relations Council;

(2) 'Family' includes a single individual;

(3) 'Financial Institution' means any banking corporation or trust company, savings and loan association, credit union, insurance company, or related corporation, partnership, foundation, or other institution engaged primarily in lending or investing funds;

(4) 'Housing Accommodation' means any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of one or more individuals;

(5) 'Person' means any individual, association, corporation, political subdivision, partnership, labor union, legal representative, mutual company, joint stock company, trust, trustee in bankruptcy, unincorporated organization, or other legal or commercial entity, the State, or governmental entity or agency;

(6) 'Real estate broker or salesman' means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these persons;

(7) 'Real estate transaction' means the sale, exchange, rental, or lease of real property;

(8) 'Real property' means a building, structure, real estate, land, tenement, leasehold, interest in real estate cooperatives, condominium, and hereditament, corporeal and incorporeal, or any interest therein.

"§ 41A-4. *Unlawful discriminatory housing practices.*—(a) It is an unlawful discriminatory housing practice for any person in a real estate transaction, because of race, color, religion, sex, or national origin, to:

(1) Refuse to engage in a real estate transaction;

(2) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;

(3) Refuse to receive or fail to transmit a bona fide offer to engage in a real estate transaction;

(4) Refuse to negotiate for a real estate transaction;

(5) Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or fail to bring a property listing to his attention, or refuse to permit him to inspect real property;

(6) Make, print, circulate, post, or mail or cause to be so published a statement, advertisement, or sign, or use a form or application for a real estate transaction, or make a record or inquiry in connection with a prospective real estate transaction, which indicates directly or

indirectly, an intent to make a limitation, specification, or discrimination with respect thereto;

(7) Offer, solicit, accept, use, or retain a listing of real property with the understanding that any person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith; or

(8) Otherwise make unavailable or deny housing.

(b) It is an unlawful discriminatory housing practice for a financial institution to whom application is made for a loan, or other financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance, or improvement of real property to:

(1) Discriminate against the applicant because of race, color, religion, sex, or national origin; or

(2) Use a form of application for a loan, or other financial assistance, or make or keep a record of inquiry in connection with an application for a loan, or other financial assistance which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination as to race, color, religion, sex, or national origin.

The provisions of this subsection shall not prohibit any financial institution from basing its actions on the income or financial abilities of any person.

(c) It is an unlawful discriminatory housing practice for a person to induce another to enter into a real estate transaction from which such person may profit:

(1) By representing that a change has occurred, or may or will occur in the composition of the residents of the block, neighborhood, or area in which the real property is located with respect to race, color, religion, sex, or national origin of the owners or occupants; or

(2) By representing that a change has resulted, or may or will result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

(d) It is an unlawful discriminatory housing practice to deny any person who is otherwise qualified by State law membership in any real estate brokers' organization, multiple listing service, or other service, organization, or facility relating to the business of engaging in real estate transactions, or to discriminate in the terms or conditions of such membership because of race, color, religion, sex, or national origin.

"§ 41A-5. *Acting for another person no defense.*—It shall be no defense to a violation of this Chapter that the violation was requested, sought or otherwise procured by another person.

"§ 41A-6. *Exemptions.*—The provisions of G.S. 41A-4 do not apply to the following:

(1) The rental of a housing accommodation in a building which contains housing accommodations for not more than four families living independently of each other, if the lessor or a member of his family resides in one of the housing accommodations;

(2) The rental of a room or rooms in a house by an individual if he or a member of his family resides therein;

(3) Religious institutions or organizations or charitable or educational organizations operated, supervised, or controlled by religious

institutions or organizations which give preference to members of the same religion in a real estate transaction, as long as membership in such religion is not restricted by race, color, sex, or national origin;

(4) Private clubs, not in fact open to the public, which incident to their primary purpose or purposes provide lodging, which they own or operate for other than a commercial purpose, to their members or give preference to their members;

(5) With respect to discrimination based on sex, the rental or leasing of housing accommodations in single-sex dormitory property;

(6) Any person, otherwise subject to its provisions, who adopts and carries out a plan to eliminate present effects of past discriminatory practices or to assure equal opportunity in real estate transactions, if the plan is part of a conciliation agreement entered into by that person under the provisions of this Chapter or under the provisions of the Federal Fair Housing Act, 42 U.S.C. G.S. 3601 *et seq.* or is voluntary and is consistent with the purposes thereof.

"§ 41A-7. *Enforcement.*—(a) Any person who claims to have been injured by an unlawful discriminatory housing practice, or who reasonably believes that he will be irrevocably injured by an unlawful discriminatory housing practice may file a complaint with the North Carolina Human Relations Council. Complaints shall be in writing, shall state the facts upon which the allegation of an unlawful discriminatory housing practice is based, and shall contain such other information, and be in such form as the Council requires. Within 10 days of receipt of the complaint the Director of the Council shall furnish a copy of the complaint to the person or persons who allegedly committed or are about to commit the unlawful discriminatory housing practice. Within 30 days after receiving a complaint the Council shall investigate the complaint to determine whether the matters complained of are within its jurisdiction, and shall, if jurisdiction is so found, give notice to the aggrieved person whether it intends to resolve it.

If the Council finds reasonable grounds to believe that an unlawful discriminatory housing practice has occurred it shall proceed to try to eliminate or correct such discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public by any employee of the Council, or used as evidence in a subsequent proceeding under this act without the written consent of the persons concerned. If the Council finds no reasonable ground to believe that an unlawful discriminatory housing practice has occurred or is about to occur it shall dismiss the complaint, and issue to the complaining party a right-to-sue letter which will enable him to bring a civil action in superior court.

(b) A complaint under subsection (a) shall be filed within 180 days after the alleged unlawful discriminatory housing practice occurred. A respondent may file an answer to the complaint against him within 10 days after receiving a copy of the complaint. With the leave of the Council, which shall be granted whenever it would be reasonable and fair to do so, the complaint and the answer may be amended at any time. Complaints and answers shall be verified.

(c) Whenever another agency of the State or any other unit of government of the State has jurisdiction over the subject matter of any complaint filed under this section, and such agency or unit of government has legal authority

equivalent to or greater than the authority under this Chapter to investigate or act upon the complaint, the Council shall be divested of jurisdiction over such complaint. The Council shall, within 30 days, notify the agency or unit of government of the apparent unlawful discriminatory housing practice, and request that the complaint be investigated in accordance with such authority.

(d)(i) If within 180 days after a complaint has been filed the Council has failed to take final action, the complainant may commence a civil action in superior court against the respondent to enforce the rights granted or protected by this act, insofar as such rights relate to the subject of the complaint. The commencement of an action by the complainant shall divest the Council of jurisdiction over the complaint. Within 10 days of the filing of the action the complainant shall mail a copy of the original complaint to the Council.

(d)(ii) If the Council, within the 180-day period in subsection (d)(i) is unable to resolve the alleged unlawful discriminatory housing practice, by the methods allowed by this section, the Council may commence a civil action in superior court against the respondent for such preventive relief as it deems necessary to insure the full enjoyment of the rights granted by this act. In the event the complainant has also filed a complaint the court shall consolidate the actions.

(e) The court may grant relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff, actual and punitive damages, and may award court costs, and reasonable attorney's fees to the prevailing party, other than a State agency or commission; provided, however, that a prevailing respondent may be awarded court costs and reasonable attorney's fees only upon a showing that the case is frivolous, unreasonable, or without foundation.

"§ 41A-8. *Investigation; subpoenas.*—(a) In conducting an investigation, the Council shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the Council first complies with the provisions of the Fourth Amendment to the United States Constitution relating to unreasonable searches and seizures.

(b) The Council may issue subpoenas to compel access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the general court of justice.

(c) Upon written application to the Council, a respondent shall be entitled to the issuance of a reasonable number of subpoenas subject to the same limitations as subpoenas issued by the Council. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(d) In case of contumacy or refusal to obey a subpoena, the Council or the respondent may petition for its enforcement in the superior court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

"§ 41A-9. *Statute of limitation.*—Any civil action brought pursuant to this Chapter, shall be commenced within 180 days from the date of issuance of the

right-to-sue letter, or the expiration of 180 days from the filing of a complaint with the Council whichever occurs first.

"§ 41A-10. *Venue.*—All civil actions shall be commenced in the county where the alleged unlawful discriminatory housing practice occurred, or in the county where the real property is located."

Sec. 2. G.S. 143B-391 is amended by removing the word "and" from the end of subdivision (9), by deleting the period at the end of subdivision (10) and substituting "; and", and by adding a new subdivision (11) at the end to read:

"(11) To administer the provisions of the State Fair Housing Act as outlined in Chapter 41A of the General Statutes."

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of June, 1983.

S. B. 422 CHAPTER 523

AN ACT CONCERNING FEES RELATING TO THE PRACTICE OF COSMETIC ART.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88-21, as found in the 1981 Supplement, is amended in lines 6, 7, 10, and 26 by substituting "eleven dollars ($11.00)" for "eight dollars ($8.00)"; in line 11 by substituting "five dollars ($5.00)" for "four dollars ($4.00)"; and at the end of the section by adding the following new sentence:

"All cosmetic art teachers shall be licensed by the Board and shall pay a fee of ten dollars ($10.00) for the license, which shall be renewed every two years."

Sec. 2. This act shall become effective October 1, 1984.

In the General Assembly read three times and ratified, this the 14th day of June, 1983.

S. B. 565 CHAPTER 524

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO PERMIT ENCROACHMENT OF AIRSPACE ABOVE HENRY STREET IN THE TOWN OF STONEVILLE FOR CONSTRUCTION OF A BRIDGE.

The General Assembly of North Carolina enacts:

Section 1. The Department of Transportation may permit private use of and encroachment upon the airspace above Henry Street located inside the corporate limits of the Town of Stoneville for the purpose of construction and maintenance of a bridge to connect and serve a factory or warehouse of Stoneville Furniture Company, Inc.; provided, in the opinion of the Department of Transportation the bridge will not unreasonably interfere with or impair the property rights and easements of abutting owners nor unreasonably interfere with or obstruct the public use of Henry Street.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1983.

H. B. 345 CHAPTER 525

AN ACT TO ALLOW WATER AND SEWER AUTHORITIES TO DEFEND OFFICERS, EMPLOYEES, AND GOVERNING BOARD MEMBERS AND PAY ANY OR ALL OF A CLAIM MADE OR CIVIL JUDGMENT ENTERED AGAINST ANY OF THEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-167 is amended by adding a new subsection to read:

"(d) For the purposes of this section, 'authority' means an authority organized under Article 1 of Chapter 162A of the General Statutes, the North Carolina Water and Sewer Authorities Act."

Sec. 2. G.S. 160A-167(a) is amended by inserting immediately before the words "employee or officer, or former employee or officer", wherever they appear, the words "member or former member of the governing body of any authority, or any city, county, or authority"; and by inserting immediately after the word "city" wherever it appears the word "authority".

Sec. 3. G.S. 160A-167(b) and (c) are each amended by deleting "city or county" wherever they appear and inserting in lieu thereof "city, authority, or county"; and further by adding before the words "employees or officers or former employees or officers" and "employee or officer" the words "members or former members of the governing body of any authority, or any city, county, or authority".

Sec. 4. G.S. 160A-167(c) is further amended by adding after the words "city council" and before the words "or board of county commissioners" the words ", authority governing board," whenever those words appear, and adding after the words "county commissioners" the words "as the case may be".

Sec. 5. G.S. 162A-6 is amended by adding a new subdivision to read:

"(14b) To provide for the defense of civil and criminal actions and payment of civil judgments against employees and officers or former employees and officers and members or former members of the governing body as authorized by G.S. 160A-167, as amended."

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1983.

H. B. 493 CHAPTER 526

AN ACT TO IMPLEMENT THE CONSTITUTIONAL AMENDMENT REGARDING APPEAL OF UTILITIES COMMISSION ORDERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-29 is amended by adding after the words "Utilities Commission" the words "not governed by subsection (b)", and is further amended by designating the current section, as amended, as subsection (a) and adding a new subsection (b) to read as follows:

"(b) From any final order or decision of the Utilities Commission in a general rate case, appeal as of right lies directly to the Supreme Court."

Sec. 2. G.S. 7A-30 is rewritten to read as follows:

"Except as provided in G.S. 7A-28, an appeal lies of right to the Supreme Court from any decision of the Court of Appeals rendered in a case:

(1) Which directly involves a substantial question arising under the Constitution of the United States or of this State, or

(2) In which there is a dissent."

Sec. 3. G.S. 7A-31(a) is amended by deleting from the first sentence of that subsection the words and punctuation "the North Carolina Utilities Commission,".

Sec. 4. The first sentence of G.S. 62-90(d) is rewritten to read as follows:

"The appeal shall lie to the Appellate Division of the General Court of Justice as provided in G.S. 7A-29."

Sec. 5. Subsection (g) of G.S. 62-90 is repealed.

Sec. 6. G.S. 62-91 is amended by deleting the last sentence of that subsection.

Sec. 7. G.S. 62-92 is amended by deleting the words "Court of Appeals" and inserting in their place the words "Appellate Division of the General Court of Justice".

Sec. 8. The second sentence of G.S. 62-95 is amended by deleting the words "Court of Appeals" and inserting in their place the words "appellate court with jurisdiction over the case on appeal".

Sec. 9. G.S. 62-96 is rewritten to read and provide as follows:

"Appeals of final orders of the Utilities Commission to the Supreme Court are governed by Article 5 of General Statutes Chapter 7A. In all appeals filed in the Court of Appeals, any party may file a motion for discretionary review in the Supreme Court pursuant to G.S. 7A-31. If the Commission is the appealing party, it is not required to give any undertaking or make any deposit to assure payment of the cost of the appeal, and the court may advance the cause on its docket."

Sec. 10. This act shall become effective July 1, 1983, and applies to final orders of the Utilities Commission entered on or after that date.

In the General Assembly read three times and ratified, this the 15th day of June, 1983.

H. B. 186 CHAPTER 527

AN ACT TO AMEND CHAPTER 110 OF THE GENERAL STATUTES TO ESTABLISH PROCEDURES FOR THE PROVISION OF NONRECIPIENT SERVICES AS REQUIRED BY FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 110 of the General Statutes is amended by adding a new section to read:

"§ 110-130.1. *Nonrecipient services.*—(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of a twenty dollar ($20.00) application fee.

(b) The State shall recover the costs, in excess of the application fee, incurred in providing services to a nonrecipient by deducting ten percent (10%) of the

support collected, until the costs incurred in the case have been recovered. No costs shall be charged or recovered until all public assistance debts created under this Article have been liquidated. Recoverable costs shall be the administrative and legal costs incurred in providing services; administrative costs shall not exceed the rate of fifteen dollars ($15.00) per hour, and legal costs shall not exceed the rate of forty-five dollars ($45.00) per hour. The appropriate judicial official shall be informed that such costs are to be collected in this manner from the individual to whom services are provided.

In all nonrecipient cases the amounts collected shall be transmitted to the Department of Human Resources and distributed in accordance with federal law and the provisions of this section. Any costs unrecovered when the responsibility for providing services terminates shall constitute a debt owed to the State by the nonrecipient applicant upon order of the court. If financially capable, the nonrecipient may be required to advance court filing fees and the initial costs of any paternity blood testing.

(c) Actions to establish or enforce a duty of support initiated under this Article shall be brought in the name of the county or State agency on behalf of the public assistance recipient or nonrecipient client. Collateral disputes between a custodial parent and noncustodial parent, involving visitation, custody and similar issues, shall be considered only in separate proceedings from actions initiated under this Article. The attorney representing the designated representative of programs under Title IV-D of the Social Security Act shall be deemed attorney of record only for proceedings under this Article, and not for such separate proceedings."

Sec. 2. G.S. 143B-153(8) is amended to add a new subsection (d) to read as follows:

"(d) Child support enforcement services as defined by G.S. 110-130.1".

Sec. 3. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1983.

H. B. 711 CHAPTER 528

AN ACT TO SPECIFICALLY INCLUDE MONEY USED IN DRUG DEALING AS PROPERTY SUBJECT TO FORFEITURE UNDER THE CONTROLLED SUBSTANCES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-112(a)(2) is rewritten to read:

"(2) All money, raw material, products, and equipment of any kind which are acquired, used, or intended for use, in selling, purchasing, manufacturing, compounding, processing, delivering, importing, or exporting a controlled substance in violation of the provisions of this Article;".

Sec. 2. G.S. 90-112 is amended by adding a new subsection (d1) to read:

"(d1) Notwithstanding the provisions of subsection (d), the law enforcement agency having custody of money that is forfeited pursuant to this section shall pay it to the treasurer or proper officer authorized to receive fines and forfeitures to be used for the school fund of the county in which the money was seized."

Sec. 3. G.S. 90-112(f) is amended by substituting the words "other property" for the word "conveyances" on the first line.

Sec. 4. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 15th day of June, 1983.

H. B. 723 CHAPTER 529

AN ACT TO SPECIFY WHEN A PROCESSING FEE MAY BE CHARGED FOR CHECKS SENT BY MAIL AND WHEN A COLLECTION AGENCY MAY COLLECT A PROCESSING FEE FOR RETURNED CHECKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25-3-512 is amended by deleting the second, third, and fourth sentences, and inserting the following language in lieu thereof:

"When the drawer sends a check by mail for payment of a debt and the check is dishonored and returned, the processing fee may be collected if the drawer was given prior written notice that a fee would be charged for returned checks. Any document that clearly and conspicuously states the amount of the fee that will be charged for returned checks and is delivered to the drawer or his agent, or is mailed first class mail to the drawer at his last known address as part of any document requesting payment of a debt satisfies this notice requirement for that payment only.

If a collection agency collects or seeks to collect on behalf of its principal a processing fee as specified in this section in addition to the sum payable of a check, the amount of such processing fee must be separately stated on the collection notice. The collection agency shall not collect or seek to collect from the drawer any sum other than the actual amount of the returned check and the specified processing fee."

Sec. 2. This act shall become effective July 1, 1983, and shall apply to checks written on or after that date.

In the General Assembly read three times and ratified, this the 15th day of June, 1983.

H. B. 791 CHAPTER 530

AN ACT TO PERMIT ENFORCEMENT OF CHILD SUPPORT AND CUSTODY JUDGMENTS WHILE ON APPEAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.4(f)(9) is rewritten to read as follows:

"(9) An order for the periodic payments of child support is enforceable by proceedings for civil contempt, and its disobedience may be punished by proceedings for criminal contempt, as provided in Chapter 5A of the General Statutes.

Notwithstanding the provisions of G.S. 1-294, an order for the payment of child support which has been appealed to the Appellate Division is enforceable in the trial court by proceedings for civil contempt during the pendency of the appeal. Upon motion of an aggrieved party, the Court of the Appellate Division in which the appeal is pending may stay any order for civil contempt entered for child support until the appeal is decided, if justice requires."

Sec. 2. G.S. 50-13.3(a) is rewritten to read as follows:

"(a) An order providing for the custody of a minor child is enforceable by proceedings for civil contempt, and its disobedience may be punished by

proceedings for criminal contempt, as provided in Chapter 5A, Contempt, of the General Statutes.

Notwithstanding the provisions of G.S. 1-294, an order pertaining to child custody which has been appealed to the Appellate Division is enforceable in the trial court by proceedings for civil contempt during the pendency of the appeal. Upon motion of an aggrieved party, the Court of the Appellate Division in which the appeal is pending may stay any order for civil contempt entered for child custody until the appeal is decided, if justice requires."

Sec. 3. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 15th day of June, 1983.

H. B. 838 CHAPTER 531

AN ACT TO ADD NONVIOLENT OFFENDERS IN THE TWENTY-ONE TO TWENTY-FOUR AGE GROUP TO THE COMMITTED YOUTHFUL OFFENDER LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-49.11 is rewritten to read as follows:

"§ 148-49.11. *Definitions.*—As used in this Article, a 'youthful offender' is a person under twenty-one (21) years of age in the custody of the Secretary of Correction or a person under twenty-five (25) years of age who is in the custody of the Secretary of Correction but who has not been convicted of a violent or a Class A, B, C, D, E, F, or G felony. A 'committed youthful offender' is a youthful offender who shall have the benefit of early release under the provisions of G.S. 148-49.15. All rights accrued by persons prior to October 1, 1977, shall not be affected."

Sec. 2. G.S. 148-49.12(a) is amended by deleting the first sentence and replacing it with the following two sentences:

"To the extent practicable in light of the needs of the youthful offenders and of the needs and resources of the prison system, the Secretary of Correction shall house youthful offenders under twenty-one (21) years of age in facilities separate from prisoners more than twenty-one (21) years of age. Those youthful offenders more than twenty-one (21) years of age shall be housed in accordance with policies established by the Secretary of Correction."

Sec. 3. G.S. 148-49.14 is amended by adding the following sentence between the first and second sentences of the section:

"When a person under twenty-five (25) years of age is convicted of a crime punishable by imprisonment but which is not a Class A, B, C, D, E, F, or G felony, or a violent crime, and the court does not suspend the imposition or execution of sentence and place him on probation, the court may sentence such a person to the custody of the Secretary of Correction as a committed youthful offender." and is further amended by substituting the number "twenty-five (25)" for the number "twenty-one (21)" where it appears in the last sentence of the section.

Sec. 4. This act shall become effective July 1, 1983, and applies to persons convicted of crimes committed on or after that date.

In the General Assembly read three times and ratified, this the 15th day of June, 1983.

H. B. 913 CHAPTER 532

AN ACT TO PROVIDE THAT WHEN A DISTRICT COURT JUDGE TRANSFERS A JUVENILE FELONY CASE TO SUPERIOR COURT, THE SUPERIOR COURT HAS JURISDICTION OVER THAT FELONY, ANY RELATED OFFENSE, AND ANY GREATER OR LESSER INCLUDED OFFENSE OF THAT FELONY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-610(a) is amended by adding the following sentence at the end of the subsection:

"When the case is transferred to superior court, the superior court has jurisdiction over that felony, any offense based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a single scheme or plan of that felony, and any greater or lesser included offense of that felony."

Sec. 2. This act shall become effective October 1, 1983, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified, this the 15th day of June, 1983.

S. B. 139 CHAPTER 533

AN ACT TO ALLOW THE PURCHASE OF CREDITABLE SERVICE WITH THE STATE RETIREMENT SYSTEMS FOR LEAVES OF ABSENCE WHEN IN RECEIPT OF WORKERS' COMPENSATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-4 is amended by the addition of a new subsection designated as "(r)" to read:

"(r) Notwithstanding any other provision of this Chapter, any member may purchase creditable service for periods of employer approved leaves of absence when in receipt of benefits under the North Carolina Workers' Compensation Act. This service shall be purchased by paying a cost calculated in the following manner:

(1) Leaves of Absence Terminated Prior to July 1, 1983. The cost to a member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminated upon return to service prior to July 1, 1983, shall be a lump sum amount payable to the Annuity Savings Fund equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities, and shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance, as determined by the board of trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the board of trustees.

(2) Leaves of Absence Terminating On and After July 1, 1983. The cost to a member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminates upon return to service on and after July 1, 1983, shall be a lump sum amount due and payable to the Annuity Savings Fund within

six months from return to service equal to the total employee and employer percentage rates of contribution in effect at the time of purchase and based on the annual rate of compensation of the member immediately prior to the leave of absence; provided, however, the cost to a member whose amount due is not paid within six months from return to service shall be the amount due plus one percent (1%) per month penalty for each month or fraction thereof the payment is made beyond the six-month period."

Sec. 2. G.S. 128-26 is amended by the addition of a new subsection designated as "(l)" to read:

"(l) Notwithstanding any other provision of this Chapter, any member may purchase creditable service for periods of employer approved leaves of absence when in receipt of benefits under the North Carolina Workers' Compensation Act. This service shall be purchased by paying a cost calculated in the following manner:

(1) Leaves of Absence Terminated Prior to July 1, 1983. The cost to a member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminated upon return to service prior to July 1, 1983, shall be a lump sum amount payable to the Annuity Savings Fund equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities, and shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance, as determined by the board of trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the board of trustees.

(2) Leaves of Absence Terminating On and After July 1, 1983. The cost to a member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminates upon return to service on and after July 1, 1983, shall be a lump sum amount due and payable to the Annuity Savings Fund within six months from return to service equal to the total employee and employer percentage rates of contribution in effect at the time of purchase and based on the annual rate of compensation of the member immediately prior to the leave of absence; provided, however, the cost to a member whose amount due is not paid within six months from return to service shall be the amount due plus one percent (1%) per month penalty for each month or fraction thereof the payment is made beyond the six-month period."

Sec. 3. G.S. 143-166 is amended by the addition of a new subsection designated as "(y1)" to read:

"(y1) Notwithstanding any other provision of this Article, any officer may purchase creditable service for periods of employer approved leaves of absence when in receipt of benefits under the North Carolina Workers' Compensation Act. This service shall be purchased by paying a cost calculated in the following manner:

(1) Leaves of Absence Terminated Prior to July 1, 1983. The cost to an officer whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act,

terminated upon return to service prior to July 1, 1983, shall be a lump sum amount payable to the officer's credit in his Regular Contributions Account equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the Fund's liabilities, and shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the officer could retire on an unreduced retirement allowance, as determined by the board of commissioners upon the advice of the consulting actuary, plus an administrative fee to be set by the board of commissioners.

(2) Leaves of Absence Terminating On and After July 1, 1983. The cost to an officer whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminates upon return to service on and after July 1, 1983, shall be a lump sum amount due and payable to the officer's credit in his Regular Contributions Account within six months from return to service equal to the total officer and employer rates of contribution in effect at the time of purchase and based on the annual rate of compensation of the officer immediately prior to the leave of absence; provided, however, the cost to an officer whose amount due is not paid within six months from return to service shall be the amount due plus one percent (1%) per month penalty for each month or fraction thereof the payment is made beyond the six-month period."

Sec. 4. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 15th day of June, 1983.

S. B. 230 CHAPTER 534

AN ACT TO AMEND THE BUNCOMBE SCHOOL CAPITAL FUND COMMISSION ACT.

The General Assembly of North Carolina enacts:

Section 1. Section 8 of Chapter 134, Session Laws of 1983, is amended by deleting "under Section 11" and inserting in lieu thereof "under Section 10".

Sec. 2. The first two sentences of Section 13 of Chapter 134, Session Laws of 1983, are rewritten to read:

"Sections 1 through 5, 11.1 and 12 of this act are effective upon ratification. Sections 6 through 11 of this act shall become effective July 1, 1983."

Sec. 3. The first sentence of Section 6 of Chapter 134, Session Laws of 1983, is amended by adding immediately before the period the words "; provided that if distribution of the local government sales and use tax revenue is made under G.S. 105-472(2), (the *ad valorem* method), then taxing districts shall receive their funds under G.S. 105-472(2) as if no funds had been paid to the Commission by the Secretary of Revenue, and in computing what amount is one-half of the sales and use tax revenue, the Secretary of Revenue shall not reduce the total by the amount to be distributed to the taxing districts."

Sec. 4. Section 8 of Chapter 134, Session Laws of 1983 is amended by deleting the words "or any other governmental entity".

Sec. 5. Section 8 of Chapter 134, Session Laws of 1983, is further amended by deleting "for public school construction of any amount, and public

school improvement and renovation projects exceeding fifty thousand dollars ($50,000)", and inserting in lieu thereof "for new public school construction of any amount, and public school improvement and renovation projects estimated to cost in excess of one hundred thousand dollars ($100,000) at any one location".

Sec. 6. Section 10 of Chapter 134, Session Laws of 1983, is amended by deleting "to finance public school capital construction and public school improvement and renovation projects in Buncombe County", and inserting in lieu thereof "to finance new public school construction of any amount, and public school improvement and renovation projects estimated to cost in excess of one hundred thousand dollars ($100,000) at any one location,".

Sec. 7. Chapter 134, Session Laws of 1983, is amended by adding a new section to read:

"Sec. 11.1. Notwithstanding any other provision of this act, if the Buncombe County Board of Commissioners appropriates any federal revenue sharing funds to the Commission for the purpose of substituting revenue sharing funds for sales tax funds, then it must at the same time appropriate from the Commission to the county an equal amount of funds received under Section 6 to be used for such purposes as the Board of Commissioners shall deem appropriate and are otherwise authorized by law, provided that such federal revenue sharing funds shall be divided pro rata under Section 10 of this act."

Sec. 8. Section 10 of Chapter 134, Session Laws of 1983, is amended by adding the following at the end:

"By joint agreement of the Board of County Commissioners and both boards of education, money may be transferred from the account under this section of one board of education to the account under this section of the other board of education, provided that the agreement must require a transfer back of an equal amount of funds at some fixed date in the future, plus a sum to be determined at that date which represents interest which would have accrued on the funds if they had remained in the first account."

Sec. 9. Section 10 of Chapter 134, Session Laws of 1983, is further amended by deleting "retire any indebtedness incurred by the county or a local school board", and inserting in lieu thereof "retire any indebtedness incurred by the county after July 1, 1983".

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1983.

H. B. 588 CHAPTER 535

AN ACT TO AMEND CHAPTER 495 OF THE SESSION LAWS OF 1977 TO CLARIFY THE EFFECT OF SAID ACT, WHICH IS A CODIFICATION OF THE CHARTER OF THE CITY OF WILMINGTON, ON OTHER ACTS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 495, Session Laws of 1977 is amended to add the following acts which shall not be deemed to be repealed, modified, nor in any manner affected by that act:

(164) Session Laws 1975, Chapter 249
(165) Session Laws 1975, Chapter 247

(166) Session Laws 1973 (2nd Session, 1974), Chapter 93
(167) Session Laws 1973, Chapter 851
(168) Session Laws 1967, Chapter 252
(169) Session Laws 1963, Chapter 995
(170) Private Laws 1923, Chapter 228
(171) Private Laws 1915, Chapter 55.

Sec. 2. Section 3 of Chapter 495, Session Laws of 1977 is hereby amended to delete the following acts from the list of acts which shall not be deemed to be repealed, modified, or in any manner affected by that act:

(64) Public-Local Laws 1941, Chapter 272
(82) Private Laws 1937, Chapter 31
(98) Private Laws 1935, Chapter 15
(120) Private Laws 1924, Chapter 45
(141) Private Laws 1921, Chapter 209
(147) Private Laws 1919, Chapter 157
(149) Private Laws 1919, Chapter 164.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 774 CHAPTER 536

AN ACT REGARDING PROBATION REVOCATION IN A COUNTY OTHER THAN THE COUNTY OF ORIGINAL CONVICTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1344(c) is amended by deleting the last sentence and substituting the following:

"In cases where the probation is revoked in a county other than the county of original conviction the clerk in that county must issue a commitment order and must file the order revoking probation and the commitment order, which will constitute sufficient permanent record of the proceeding in that court, and must send a certified copy of the order revoking probation, the commitment order, and all other records pertaining thereto to the county of original conviction to be filed with the original records. The clerk in the county other than the county of original conviction must issue the formal commitment to the North Carolina Department of Correction."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 694 CHAPTER 537

AN ACT TO REPEAL THE REQUIREMENT OF A NEW REGISTRATION OF VOTERS UPON INCORPORATION OF A MUNICIPALITY AND SIMULTANEOUS DISSOLUTION OF A SANITARY DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-156.3(a)(1) is amended by deleting "shall provide for a new registration of voters in the area of the proposed municipality", and inserting in lieu thereof:

"shall provide for registration of voters in the area of the proposed municipality in accordance with G.S. 163-288.2".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 605 CHAPTER 538

AN ACT TO AMEND G.S. 20-13 AND G.S. 20-16 RELATING TO SUSPENSION OF DRIVERS' LICENSES OF PROVISIONAL LICENSEES AND LICENSEES HOLDING MOTOR VEHICLE OPERATORS' LICENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-13(a) is amended by deleting from the first sentence the words "with or without" and substituting the words "after providing an opportunity for".

Sec. 2. G.S. 20-13(b)(1) is hereby amended by striking the entire second sentence thereof.

Sec. 3. G.S. 20-16(a) is amended by deleting from the first sentence the words "with or without" and substituting the words "after providing an opportunity for".

Sec. 4. G.S. 20-16(c) is hereby amended by:

(a) Deleting the entire first sentence of the sixth paragraph which reads as follows: "Whenever a licensee accumulates as many as four points hereunder, the Division shall mail a letter of warning to the licensee at his last known address, but failure to receive such a warning letter shall not prevent a suspension under this subsection."

(b) Striking the figure "10" in the last sentence of the sixth paragraph and inserting in lieu thereof the figure "5".

Sec. 5. G.S. 20-16(d) as it appears in Volume 1C, 1978 Replacement is hereby amended by:

(a) Striking the figure "20" appearing in line 5 immediately after the word "exceed" and before the word "days" and inserting in lieu thereof the figure "30".

(b) Entering a period in line 5 after the word "request" and deleting the phrase "in the county wherein the licensee resides" and inserting in lieu thereof "The hearing shall be conducted in the judicial district wherein the licensee resides. Hearings shall be rotated among all the counties within the judicial district if the judicial district contains more than one county".

(c) Striking the word "county" appearing in line 7 immediately after the word "other" and before the word "and" and inserting in lieu thereof the words "judicial district".

Sec. 6. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 886 CHAPTER 539

AN ACT TO PROVIDE FOR REASONABLE BEACH ACCESS WITHIN THE TOWN OF EMERALD ISLE.

The General Assembly of North Carolina enacts:

Section 1. The Department of Natural Resources and Community Development, in cooperation with the Town of Emerald Isle, is hereby directed to acquire real property by purchase or condemnation, make improvement for and maintain facilities for the provision of public pedestrian beach access in the vicinity of Bogue Inlet. The town shall not be required to expend local funds to acquire real property, but shall be responsible for maintaining the facility. Public beach access facilities in the vicinity of Bogue Inlet shall include parking areas, pedestrian walkways, and rest room facilities, and may include any other public beach access support facilities. Insofar as is feasible, said facility shall include all lands inletward of the dune adjacent to the terminus of Inlet Drive and the adjacent portion of Bogue Court, as well as such adjacent properties necessary to provide adequate parking and support facilities. Notwithstanding any other law or authority to the contrary, beach access facilities in the vicinity of Bogue Inlet after the installation of said public pedestrian beach access facility shall not include facilities for vehicular access to the beach, including but not limited to the use of the Inlet Drive right-of-way for vehicular access; provided that such prohibition shall not apply until the pedestrian beach access facility is opened; after the installation of said public pedestrian beach access facility, motor vehicles are hereby prohibited from being operated on the ocean beaches and dunes adjacent to and within Blocks 51, 52, 53 and 54 of Emerald Isle; provided that this vehicular access prohibition shall not apply to reasonable access by public service, police, fire, rescue or other emergency vehicles.

Sec. 2. Nothing in this act shall be construed to otherwise limit or constrain the authority of the Town of Emerald Isle to regulate and manage the use of vehicles on ocean beach areas.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 916 **CHAPTER 540**

AN ACT TO ESTABLISH THE GOVERNOR'S MANAGEMENT COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 23. Governor's Management Committee.

"§ 143B-426.21. *Governor's Management Council.*—(a) Creation; membership. The Governor's Management Council is created in the Department of Administration. The Council shall contain the following members: The Secretary of Administration, who shall serve as chairman, a senior staff officer responsible for productivity and management programs from the Departments of Commerce, Revenue, Natural Resources and Community Development, Transportation, Crime Control and Public Safety, Cultural Resources, Correction, Human Resources, and Administration; and an equivalent officer from the Offices of State Personnel, State Budget and Management, and the Governor's Program for Executive and Organizational Development. The following persons may also serve on the Council if the entity represented chooses to participate: a senior staff officer responsible for productivity and management programs from any State department not previously specified in this section, and a representative from The University of North Carolina.

(b) Powers. The Council may:

(1) coordinate efforts to make State government more efficient and productive;

(2) review plans and policies submitted by participating agencies to improve agency management and productivity;

(3) recommend to the Governor the issuance of specific Management Directive and Executive Orders that will establish management policies and procedures to be implemented by the agencies to improve agency management and productivity;

(4) provide a clearinghouse for productivity initiatives and communicate these initiatives to all agencies;

(5) authorize special projects on specific management and productivity improvement issues;

(6) review plans and policies of statewide management programs such as the Incentive Pay Program, the North Carolina Employee Suggestion System, the Work Options Program, and similar productivity improvement programs; and

(7) develop criteria for annual recognition for outstanding Government Executives.

"§ 143B-426.22. *Meetings; clerical services report.*—The Council shall meet monthly or at the call of the Chairman. The Department of Administration is responsible for providing clerical and other services required by the Council. The Council shall make an annual report of its work to the Governor and to the Joint Appropriations Committee of the General Assembly."

Sec. 2. This act is effective upon ratification. This act shall only become effective if sufficient funds are appropriated for its implementation.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 978 CHAPTER 541

AN ACT TO AMEND G.S. 24-10 CONCERNING FEES ON SECOND MORTGAGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-10 is amended by adding a new subsection (g) thereto as follows:

"(g) Notwithstanding the limitations contained in subsection (a) of this section, a lender described in G.S. 24-1.1A(a)(2) may charge or receive from any borrower or any agent for a borrower, fees or discounts which in the aggregate do not exceed two percent (2%) on loans made under G.S. 24-1.1 or G.S. 24-1.2(2) when such loans are secured by a second or junior lien on real property."

Sec. 2. This act is effective upon ratification and shall apply to loans made after that date.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 1000 CHAPTER 542

AN ACT TO INCREASE THE MAXIMUM AMOUNT MOTOR CLUBS MAY REIMBURSE FOR EMERGENCY ROAD SERVICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-49.9(5) is amended by substituting the words and figure, "fifty dollars ($50.00)" for the words and figure, "twenty-five dollars ($25.00)".

Sec. 2. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 1037 CHAPTER 543

AN ACT MAKING THE COMMISSIONER OF INSURANCE AN EX OFFICIO MEMBER OF THE PUBLIC OFFICERS AND EMPLOYEES LIABILITY INSURANCE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 143B-422 is amended by deleting the figure "10" and substituting "11".

Sec. 2. G.S. 143B-422 is amended by adding a new sentence, immediately after the second sentence, to read: "The Commissioner of Insurance or his designate shall be an ex officio member".

Sec. 3. The fourth paragraph of G.S. 143B-424 is amended by deleting the words "any company", each time they appear, and substituting "any agency or company".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 1062 CHAPTER 544

AN ACT TO PROVIDE THAT THE FACT THAT A PERSON OWNS TEN PERCENT OR LESS OF THE STOCK OF A CORPORATION OR HAS A TEN PERCENT OR LESS OWNERSHIP IN ANY OTHER BUSINESS ENTITY OR IS AN EMPLOYEE OF A CORPORATION OR OTHER BUSINESS ENTITY DOES NOT VIOLATE THE DIRECTOR OF PUBLIC TRUST STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-234 is amended by adding a new subsection to read:

"(c1) The fact that a person owns 10 percent (10%) or less of the stock of a corporation or has a 10 percent (10%) or less ownership in any other business entity or is an employee of said corporation or other business entity does not make the person 'in any manner interested' or 'concerned or interested in making such contract, or in the profits thereof', as such phrase is used in subsection (a) of this section, and does not make the person one who 'had a financial association', as defined in subsection (c) of this section; provided that in order for the exception provided by this subsection to apply, such undertaking or contracting must be authorized by the governing board by specific resolution on which such public official shall not vote."

Sec. 2. G.S. 14-234(c) is amended by deleting the words "employed or otherwise".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 129 CHAPTER 545

AN ACT TO PROVIDE THAT THE DIVISION OF MOTOR VEHICLES MAY NOT ISSUE A DRIVER'S LICENSE TO A PERSON WHOSE LICENSE WAS CANCELLED IN ANOTHER JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-9(f) is rewritten to read:

"(f) The Division shall not issue a driver's license to any person whose license or driving privilege is in a state of cancellation, suspension or revocation in any jurisdiction, if the acts or things upon which the cancellation, suspension or revocation in such other jurisdiction was based would constitute lawful grounds for cancellation, suspension or revocation in this State had those acts or things been done or committed in this State; provided, however, any such cancellation shall not prohibit issuance for a period in excess of 18 months."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 554 CHAPTER 546

AN ACT PERTAINING TO INSURANCE AND REGULATION OF HAZARDOUS WASTE LANDFILL FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. A new paragraph is added at the end of G.S.130-166.18(c) to read:

"Such rules, regarding hazardous waste landfill facilities, shall also include the following provisions:

(16) The operator of the hazardous waste landfill facility shall maintain adequate insurance to cover foreseeable claims arising from the operation of the facility. The Board shall determine what constitutes an adequate amount of insurance.

(17) The bottom of a hazardous waste landfill facility shall be at least 10 feet above the seasonal high water table and more when necessary to protect the public health and the environment.

(18) The operator of a hazardous waste landfill facility shall make monthly reports to the Governor's Waste Management Board and to the board of county commissioners of the county in which the facility is located on the kinds and amounts of hazardous wastes in the facility."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 681 CHAPTER 547

AN ACT TO ALLOW THE PAROLE COMMISSION TO IMPOSE ADDITIONAL CONDITIONS OF PAROLE ON FAIR SENTENCE INMATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1380.2(d) is amended by adding the following sentence at the end of that subsection:

"However, if it appears to the Parole Commission that the prisoner's return to the community poses a threat or danger to the health or safety of the public or the prisoner, the Parole Commission may require as additional conditions of reentry parole those provided by G.S. 15A-1374(b)(2) and (12)."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 690

CHAPTER 548

AN ACT TO PROVIDE FOR THE RETURN OF PATIENTS TO TREATMENT FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-27 is rewritten as follows:

"§ 122-27. *Return of patients to treatment facilities.*—(a) When any inpatient of a treatment facility, community mental health center, community mental health facility, regional mental health facility, regional psychiatric facility, or mental health facility, as they are defined in G.S. 122-56.2(b), 122-58.2(5), (6) or (7), or 122-98.2 who:

(1) Has been involuntarily committed thereto; or

(2) Is being detained therein prior to a judicial hearing; or

(3) Has been voluntarily admitted thereto but is a minor or incompetent adult; or

(4) Has been placed on conditional release therefrom;

shall escape or breach the condition of the patient's release, as applicable, the responsible official of such facility or center shall immediately notify the appropriate law enforcement officer of the county of residence of the patient and shall have recorded in the patient's record the condition of release which has been breached. If there are reasonable grounds to believe that the patient is in any other county, the responsible person will also notify the appropriate law enforcement officer of that county. The term 'law enforcement officer' shall have the same meaning as set forth in G.S. 122-58.2(3). Upon receipt of such notice, it shall be the duty of the law enforcement officer to take the patient into custody and return the patient to the facility or center from which the patient has escaped or has been conditionally released. The expense of returning such patient shall be borne by the county of residence of the patient.

(b) The provisions of subsection (a) shall also apply to competent adult inpatients who have been voluntarily admitted but who, in the opinion of the responsible mental health professional at the facility or center involved, are currently dangerous to themselves or others.

(c) The responsible official of the facility or center shall also notify the clerk of superior court of the county of commitment or admission requiring judicial determination (if appropriate) and the county in which the center or facility is located of the escape or breach of condition of the patient's release and of his subsequent return to the facility or center."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

S. B. 507 CHAPTER 549

AN ACT TO AMEND THE LAWS REGARDING THE OPENING OF TEXTBOOK BIDS AND TO REQUIRE LOCAL SCHOOL BOARDS TO REMIT TEXTBOOK FEES TO THE STATE BOARD ON AN ANNUAL BASIS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-90 is amended by rewriting the first sentence to read:

"The publishers sealed bids shall be opened in the presence of a person designated by the Controller of the State Board of Education, a person designated by the State Board of Education and the Director of the Division of Textbooks, Support Services Area, Office of the Controller of the State Board of Education."

Sec. 2. G.S. 115C-100 is amended in the last sentence by deleting the word "quarterly" and substituting "annually".

Sec. 3. Section 1 of this act is effective upon ratification and shall apply to bids requested after the date of ratification. Section 2 of this act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 16th day of June, 1983.

H. B. 347 CHAPTER 550

AN ACT TO AMEND CHAPTER 669 OF THE SESSION LAWS OF 1943, AS AMENDED, TO GIVE THE BOARD OF COMMISSIONERS OF THE COUNTY OF NEW HANOVER THE AUTHORITY TO TERMINATE THE RETIREMENT SYSTEM OF NEW HANOVER COUNTY, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 669 of the Session Laws of 1943 is amended by adding a new section to read:

"Sec. 15. The Board of Commissioners of New Hanover County reserve the right to terminate the retirement system at any time. Such termination may be made without the consent of the Trustees, the members, retired members, their beneficiaries or any other persons.

Upon termination of the retirement system, as provided in the immediately preceding paragraph, the Board of Commissioners of New Hanover County shall deliver a written notice of termination of the retirement system to the Trustees.

In the event of a complete termination of the retirement system, all New Hanover County contributions and all mandatory employee contributions shall cease, and each member in the retirement system shall be fully vested and nonforfeitable in his accrued benefits to the extent funded but in no event will he be vested in more than his accrued benefits. In order to provide the benefits to which each member, retired member or beneficiary is entitled, a nontransferrable annuity contract equal in value to the amount the member or beneficiary would otherwise have been entitled shall be purchased for such individual. Any such annuity contracts shall be purchased from an insurance company licensed to do business in the State of North Carolina. If, following a

complete termination of the retirement system, there are assets in the retirement fund after all liabilities to members, retired members and their beneficiaries have been satisfied, which are attributable to deviations in actuarial computations, and after an ensuing reduction for expenses of administration and liquidation of the retirement fund, such remaining assets shall revert to New Hanover County.

Upon completion of the steps specified above, the retirement system will be regarded as finally terminated, and no member, retired member, or beneficiary shall have any further right or claim to any benefits under the retirement system of New Hanover County."

Sec. 2. If any provision of this act shall be declared unconstitutional or invalid, it shall in no way invalidate any other provision.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

H. B. 366 CHAPTER 551

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF NEW BERN AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE CITY OF NEW BERN.

The General Assembly of North Carolina enacts:

Section 1. Supplemental Retirement Fund created. The Board of Trustees of the Local Firemen's Relief Fund of the City of New Bern, as established in accordance with G.S. 118-9, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the New Bern Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for the Fund separate from the books of account of the Firemen's Local Relief Fund of the City of New Bern, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

Sec. 2. Transfer of funds and disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of New Bern shall:

(a) Prior to August 1, 1983, transfer to the Supplemental Retirement Fund all funds, including earnings on investments, of the Local Relief Fund in excess of one hundred forty thousand dollars ($140,000);

(b) In each subsequent calendar year, and within 30 days after receipt from the City Treasurer of the annual funds paid to the Local Relief Fund by authority of G.S. 118-5, transfer to the Supplemental Retirement Fund these funds;

(c) At any time the amount of funds in the Local Relief Fund shall, by reason of disbursements authorized by G.S. 118-7, be less than one hundred forty thousand dollars ($140,000), transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Fund the sum of one hundred forty thousand dollars ($140,000);

(d) As soon as practical after July 1 of each year, but in no event later than September 1, divide the income earned in the preceding fiscal year upon

investments of funds belonging to the Local Firemen's Relief Fund and annual funds transferred into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 3 of this act.

Sec. 3. Supplemental Retirement Benefits.

(a) Each volunteer fireman or fully paid fireman of the City of New Bern who has previously retired with 20 or more years of active service as a city fireman and has reached the age of 55 years shall be entitled to and shall receive in each fiscal year following the fiscal year in which he retires the supplemental retirement benefits prescribed by the Board of Trustees, provided in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of one thousand two hundred dollars ($1,200).

(1) The fiscal year runs from July 1 through June 30 of the following year.

(2) Any former fireman of the City, either full time and fully paid or volunteer, who for any reason has become totally and permanently disabled and has served as a fireman in and for the City of New Bern for a period of one or more years shall be entitled to receive an equal share as any other retired fireman.

Sec. 4. Investment of funds. The Board of Trustees is authorized to invest any funds, either of the Local Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by either G.S. 159-30 or G.S. 159-21, and is hereby directed to invest all of the funds of the Supplemental Retirement Fund in one or more of such investments; provided, that investment in certificates of deposit or time deposits in any bank or trust company, or in shares of any building and loan or savings and loan association, shall not exceed the amounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, unless such deposits or investments in shares are secured in the manner provided by G.S. 159-30 or G.S. 159-31.

Sec. 5. Acceptance of gifts. The Board of Trustees is authorized to accept any gift, grant, bequest, or donation of money for the use of the Supplemental Retirement Fund.

Sec. 6. Bond of Treasurer. The Board of Trustees shall bond the Treasurer of the Local Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay the premiums of the bond of the Treasurer.

Sec. 7. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 8. All laws and clauses of laws in conflict with this act are repealed.

Sec. 9. None of the provisions of this act shall create a liability for the New Bern Firemen's Supplemental Retirement Fund unless sufficient current assets are available in the Fund to pay fully for the liability.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

H. B. 603 **CHAPTER 552**

AN ACT TO AMEND CHAPTER 55 OF THE PRIVATE LAWS OF 1915, AS AMENDED, TO PROVIDE THAT THE POLICE PENSION FUND OF WILMINGTON SHALL BE ADMINISTERED BY THE PENSION BOARD OF THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 55 of the Private Laws of 1915, as rewritten by Chapter 249 of the 1975 Session Laws, is hereby rewritten as follows:

"Section 1. The Police Pension Fund of Wilmington, North Carolina, as created by Chapter 55 of the Private Laws of 1915 and laws amendatory thereto, shall be administered by a board to be known as the 'Pension Board of the City of Wilmington'. Said Board shall consist of five members as follows: The City Manager who will serve as Chairman, the Director of Finance who will serve as Treasurer, the Director of Personnel who will serve as Secretary, an employee who is a member of the Police Pension Fund and an employee who is a member of the Firemen's Pension Fund. At such time that all members of a Fund are retired, a retiree from the Fund shall serve. All members of the Pension Board shall be appointed by the council of the City. The term of office of the City Manager, Director of Finance and Director of Personnel shall be governed by their terms of office. Resignation of such a member of the Board shall be deemed to have occurred when he ceases to hold office, with the vacancy being filled by his successor. The employee or retiree members shall serve four-year terms, the terms staggered each two years. The members of the Board shall receive no compensation for their services.

The Board shall hold meetings upon such notice, at such place or places, and at such times as its members from time to time determine. A majority of the members of the Board at the time in office shall constitute a quorum for the transaction of business. All action taken by the Board at any meeting shall be by vote of the majority of its members present at such meeting; provided, however, the Board may act without a meeting by unanimous action of its members evidenced by a resolution signed by all such members.

During the interim between meetings of the full Pension Board, the Pension Board shall act through an Executive Committee to be composed of: the City Manager, Director of Finance, and Director of Personnel. Action by the Executive Committee shall be deemed that of the Pension Board, subject to Board review at its next meeting. Such action by the Executive Committee shall be by vote of the majority of its members. Provided that, if there is no majority of its members then in office or there is only one member then in office, action shall be by the full Pension Board.

The members of the Pension Board, and each of them, shall be free from all liability, joint or several, for their acts, omissions and conduct, and for the acts, omissions, and conduct of their duly constituted agents, in the administration of the fund, and the City shall indemnify and save them, and each of them harmless from effects and consequences of their acts, omissions, and conduct in their official capacity, except to the extent that such effects and consequences shall result from their own willful misconduct or gross negligence. No member of the Pension Board shall be liable for the acts of any other member of the Pension Board.

The Pension Board may, from time to time, consider and make recommendations for changes to the council of the City of Wilmington, provided no change in the fund shall be submitted or discussed with council of the City in public session prior to a called or regularly scheduled meeting of the Pension Board and submission to and discussion by the Pension Board at least 30 days prior to submission to council."

Sec. 2. Section 3 of Chapter 55 of the Private Laws of 1915, as rewritten by Chapter 252 of the 1967 Session Laws, and amended by Chapter 249 of the 1975 Session Laws, is hereby rewritten to read as follows:

"Sec. 3. The Pension Board organized as herein provided shall have control over the funds derived from the provisions of this act, and it may continue to receive and require the deposit of them as received, to the credit of said fund, or to invest the same in the Police Pension Fund of Wilmington, North Carolina, in one or more of the investments named in or authorized by either G.S. 159-30 or G.S. 159-31. The said Board may, and it is authorized and empowered to establish such rules and regulations from time to time, for the disposition, investment, preservation, and administration of said fund, not in conflict therewith, as it may deem best."

Sec. 3. Section 9(1) of Chapter 55 of the Private Laws of 1915, as amended by Chapter 249 of the 1975 Session Laws, is hereby amended to delete the words "Commissioners of the City of Wilmington are" and substituting in lieu thereof the words "council of the City of Wilmington is".

Sec. 4. Section 9(9) of Chapter 55 of the Private Laws of 1915, as amended by Chapter 249 of the 1975 Session Laws, is hereby amended to delete the words "the city Clerk and Treasurer of the City of Wilmington are" in the third sentence and substituting in lieu thereof the words "the Director of Finance of the City of Wilmington is".

Sec. 5. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 6. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 7. None of the provisions of this act shall create a liability for the Wilmington Police Pension Fund.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

H. B. 1070 CHAPTER 553

AN ACT TO CLARIFY THAT JUDGES OF ELECTION, LIKE OTHER PRECINCT OFFICIALS, MAY REGISTER VOTERS ANYWHERE IN THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-67(a) is amended by rewriting the third paragraph to read:

"Registrars, judges of election, and special registration commissioners appointed under the provisions of G.S. 163-41 may take registration applications from and administer registration oaths to qualified applicants

without regard to the precinct residence of the registrar, judge of election, special registration commissioner, or applicant."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

S. B. 411 CHAPTER 554

AN ACT TO PERMIT THE ISSUANCE OF REVENUE BONDS AND REVENUE NOTES BY THE STATE OF NORTH CAROLINA AND AGENCIES THEREOF AS HEREINAFTER AUTHORIZED BY THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-80(a) is rewritten to read:

"(a) This Article may be cited as 'The State and Local Government Revenue Bond Act'."

Sec. 1.1. G.S. 159-80(b) is amended by adding a new sentence to read:

"It is further the intent of the General Assembly by enactment of this Article to provide an alternative and supplemental procedure for the exercise by the State of North Carolina of the power to finance revenue bond projects through the issuance of revenue bonds and notes."

Sec. 2. G.S. 159-81(2) is rewritten to read:

"'Revenue Bond' means a bond issued by the State of North Carolina or a municipality pursuant to this Article."

Sec. 2.1. G.S. 159-81(3) is amended by adding a new subparagraph to read:

"l. In addition to the foregoing, in the case of the State of North Carolina, any other project authorized by the General Assembly."

Sec. 2.2. G.S. 159-81(4) is rewritten to read:

"'Revenues' include all moneys received by the State or a municipality from, in connection with, or as a result of its ownership or operation of a revenue bond project or a utility or public service enterprise facility or system of which a revenue bond project is a part, including (to the extent deemed advisable by the State or a municipality) moneys received from the United States of America, the State of North Carolina, or any agency of either, pursuant to an agreement with the State or a municipality, as the case may be, pertaining to the project."

Sec. 3. G.S. 159-83(a) is amended by revising the introductory language thereof to read:

"In addition to the powers they may now or hereafter have, the State and each municipality shall have the following powers, subject to the provisions of this Article and of any revenue bond order or trust agreement securing revenue bonds:".

Sec. 3.1. G.S. 159-83(a)(1) is rewritten to read:

" (1) To acquire by gift, purchase, or exercise of the power of eminent domain or to construct, reconstruct, improve, maintain, better, extend, and operate, one or more revenue bond projects or any portion thereof without regard to location within or without its boundaries, upon determination (i) in the case of the State, by the Council of State and (ii) in the case of a municipality, by resolution

of the governing board that a location wholly or partially outside its boundaries is necessary and in the public interest."

Sec. 3.2. G.S. 159-83(a)(2) is rewritten to read:

"(2) To sell, exchange, transfer, assign or otherwise dispose of any revenue bond project or portion thereof or interest therein determined (i) in the case of the State, by the Council of State and (ii) in the case of a municipality, by resolution of the governing board not to be required for any public purpose."

Sec. 3.3. G.S. 159-83(a)(4) is rewritten to read:

"(4) To enter into contracts with any person, firm, or corporation, public or private, on such terms (i) in the case of the State, as the Council of State and (ii) in the case of a municipality, as the governing board may determine, with respect to the acquisition, construction, reconstruction, extension, betterment, improvement, maintenance, or operation of revenue bond projects, or the sale, furnishing, or distribution of the services, facilities or commodities thereof."

Sec. 3.4. G.S. 159-83(a)(5) is rewritten to read:

"(5) To borrow money for the purpose of acquiring, constructing, reconstructing, extending, bettering, improving, or otherwise paying the cost of revenue bond projects, and to issue its revenue bonds or bond anticipation notes therefor, in the name of the State or a municipality, as the case may be, but no encumbrance, mortgage, or other pledge or real property of the State or a municipality may be created in any manner."

Sec. 3.5. The last sentence of G.S. 159-83(a)(6) is rewritten to read:

"The rates, fees, rentals, tolls and charges so fixed and charged shall be such as will produce revenues at least sufficient with any other available funds to meet the expense and maintenance and operation of and renewals and replacements to the revenue bond project, including reserves therefor, to pay when due the principal, interest, and redemption premiums (if any) on all revenue bonds or bond anticipation notes secured thereby, and to fulfill the terms of any agreements made by the State or the issuing municipality with the holders of revenue bonds issued to finance all or any portion of the cost of the project."

Sec. 3.6. G.S. 159-83(a)(9)(v) is rewritten to read:

"(v) to pay and discharge general obligation bonds issued under Article 4 of this Chapter or under any act of the General Assembly, when the revenues of the project financed in whole or in part by the general obligation bonds will be pledged to the payment of the revenue bonds or notes."

Sec. 3.7. G.S. 159-83(a)(15) is rewritten to read:

"(15) Subject to any provisions of law requiring voter approval for the sale or lease of utility or enterprise systems, to lease to or from any person, firm, or corporation, public or private, all or part of any revenue bond project, upon such terms and conditions as and for such term of years, not in excess of 40 years, (i) in the case of the State, as the Council of State and (ii) in the case of a municipality, as the governing board may deem advisable to carry out the provisions of this Article, and to provide in such lease for the extension or renewal thereof and, if deemed advisable, for an option to purchase or otherwise lawfully acquire the project upon terms and conditions therein specified."

Sec. 3.8. G.S. 159-83(a)(16) is rewritten to read:

"(16) To execute such instruments and agreements and to do all things necessary or therein in the exercise of the powers herein granted, or in the

performance of the covenants or duties of the State or a municipality, as the case may be, or to secure the payment of its revenue bonds."

Sec. 4. G.S. 159-83(b) is rewritten to read:

"(b) Any contract, agreement, lease, deed, covenant, or other instrument or document evidencing an agreement or covenant between bondholders or any public agency and the State or a municipality issuing revenue bonds with respect to any of the powers conferred in this section shall be approved by the commission."

Sec. 5. The first two paragraphs of G.S. 159-84 are amended to read:

"The State and each municipality is hereby authorized to issue its revenue bonds in such principal amount as may be necessary to provide sufficient moneys for the acquisition, construction, reconstruction, extension, betterment, improvement, or payment of the cost of one or more revenue bond projects, including engineering, inspection, legal and financial fees and costs, working capital, interest on the bonds or notes issued in anticipation thereof during construction and, if deemed advisable by the State or a municipality, as the case may be, for a period not exceeding two years after the estimated date of completion of construction, establishment of debt service reserves, and all other expenditures of the State or the municipality, as the case may be, incidental and necessary or convenient thereto.

Subject to agreements with the holders of its revenue bonds, the State or each municipality, as the case may be, may issue further revenue bonds and refund outstanding revenue bonds whether or not they have matured. Revenue bonds may be issued partly for the purpose of refunding outstanding revenue bonds and partly for any other purpose under this Article. Revenue bonds issued to refund outstanding revenue bonds shall be issued under this Article and not Article 4 of this Chapter or any other law."

Sec. 6. G.S. 159-85 is rewritten to read:

"§ 159-85. *Application to Commission for approval of revenue bond issue; preliminary conference; acceptance of application.*—(a) Neither the State nor a municipality may issue revenue bonds under this Article unless the issue is approved by the Commission. The State Treasurer or the governing board of the issuing municipality or its duly authorized agent, as the case may be, shall file an application for Commission approval of the issue with the secretary of the Commission. The application shall state such facts and have attached to it such documents concerning the proposed revenue bonds and the financial condition of the State or the issuing municipality, as the case may be, and its utilities and enterprises as the secretary may require. The Commission may prescribe the form of the application.

(b) Before he accepts the application, the secretary may require (i) in the case of the State, the State Treasurer or (ii) in the case of a municipality, the governing board or its representatives to attend a preliminary conference at which time the secretary and his deputies may informally discuss the proposed issue and the timing of the steps taken in issuing the bonds.

(c) After an application in proper form and order has been filed, and after a preliminary conference if one is required, the secretary shall notify the State Treasurer or the municipality, as the case may be, in writing that the application has been filed and accepted for submission to the Commission. The secretary's statement shall be conclusive evidence that the State or the municipality, as the case may be, has complied with this section."

Sec. 7. G.S. 159-86(a)(3) and G.S. 159-86(a)(4) are rewritten to read:

"(3) The State's or the municipality's, as the case may be, debt management procedures and policies.

(4) Whether the State or the municipality, as the case may be, is in default in any of its debt service obligations."

Sec. 8. G.S. 159-86(b)(4) and G.S. 159-86(b)(5) are rewritten to read:

"(4) That the State's or the municipality's, as the case may be, debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law.

(5) That the proposed revenue bonds can be marketed at reasonable interest cost to the State or the municipality, as the case may be."

Sec. 9. G.S. 159-88 is rewritten to read:

"§ 159-88. *Adoption of revenue bond order.*—(a) At any time after the Commission approves an application for the issuance of revenue bonds, (i) in the case of the State, the Council of State and (ii) in the case of a municipality, the governing board of the municipality may adopt a revenue bond order pursuant to this Article.

(b) Notwithstanding the provisions of any city charter, general law, or local act, a revenue bond order may be introduced at any regular or special meeting of the governing board of a municipality and adopted at such a meeting by a simple majority of those present and voting, a quorum being present, and need not be published or subjected to any procedural requirements governing the adoption of ordinances or resolutions by the governing board other than the procedures set out in this Article. Revenue bond orders are not subject to the provisions of any city charter or legal act concerning initiative or referendum.

(c) Notwithstanding any other provision of this Article, no bond order authorizing the issuance of revenue bonds of the State shall be adopted by the Council of State until such time as the General Assembly shall have enacted legislation authorizing the undertaking of the revenue bond project to be financed and fixing the maximum aggregate principal amount of revenue bonds that shall be issued for such purpose, and such legislation shall have taken effect."

Sec. 10. G.S. 159-89(9) is rewritten to read:

"The preparation and maintenance of a budget with respect to the expenses of the State or a municipality, as the case may be, for the operation and maintenance of revenue bond projects."

Sec. 11. G.S. 159-90 is rewritten to read:

"§ 159-90. *Limitations on details of bonds.*—In fixing the details of revenue bonds, the State or the issuing municipality, as the case may be, shall be subject to the following restrictions and directions:

(1) The maturity dates may not exceed the maximum maturity periods prescribed by the Commission for general obligation bonds pursuant to G.S. 159-122.

(2) Any bond may be made subject to redemption prior to maturity, including redemption on demand of the holder, with or without premium, on such notice and at such time or times and with such redemption provisions as may be stated. When any such bond shall have been validly called for redemption and provision shall have been made for the payment of the principal thereof, any

redemption premium, and the interest thereon accrued to the date of redemption, interest thereon shall cease.

(3) The bonds may bear interest at such rate or rates, payable semiannually or otherwise, may be in such denominations, and may be payable in such kind of money and in such place or places within or without the State of North Carolina, as the State Treasurer or the issuing municipality, as the case may be, may determine."

Sec. 12. G.S. 159-91 is rewritten to read:

"§ 159-91. *Lien of revenue bonds.*—(a) All revenue bonds issued under this Article shall be equally and ratably secured by a pledge, charge, and lien upon revenues provided for in the bond order, without priority by reason of number, or of dates of bonds, execution or delivery, in accordance with the provisions of this Article and of the bond order; except that the State or a municipality may provide in a revenue bond order that revenue bonds issued pursuant thereto shall to the extent and in the manner prescribed in the order or agreement be subordinated and junior in standing, with respect to the payment of principal and interest and the security thereof, to any other revenue bonds.

(b) Any pledge made by the State or a municipality pursuant to this Article shall be valid and binding from the date of final passage of the bond order upon the issuance of any bonds or bond anticipation notes thereunder. The revenues, securities, and other moneys so pledged and then held or thereafter received by the State or a municipality, as the case may be, or any fiduciary shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the State or a municipality, as the case may be, without regard to whether such parties have notice thereof. The bond order by which a pledge is created need not be filed or recorded in any manner other than as provided in this Chapter."

Sec. 13. G.S. 159-93 is rewritten to read:

"§ 159-93. *Agreement of the State.*—The State of North Carolina does pledge to and agree with the holders of any revenue bonds or revenue bond anticipation notes heretofore or hereafter issued by the State or any municipality in this State that so long as any such bonds or notes are outstanding and unpaid the State will not limit or alter the rights vested in the State or the municipality at the time of issuance of the bonds or notes to establish, maintain, revise, charge, and collect such rates, fees, rentals, tolls, and other charges for the use, services, facilities, and commodities of or furnished by the revenue bond project in connection with which the bonds or notes, or bonds or notes refunded by the bonds or notes, were issued as shall produce revenues at least sufficient with other available funds to meet the expense of maintenance and operation of and renewal and replacements to such project, including reserves therefor, to pay when due the principal, interest, and redemption premiums (if any) of the bonds or notes, and to fulfill the terms of any agreements made with the bondholders or noteholders, nor will the State in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders, are fully paid, met, and discharged."

Sec. 14. G.S. 159-94 is rewritten to read:

"§ 159-94. *Limited liability.*—Revenue bonds shall be special obligations of the State or the municipality issuing them. The principal of and interest on revenue bonds shall not be payable from the general funds of the State or the municipality, as the case may be, nor shall they constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the funds which are pledged under the bond order authorizing the bonds. Neither the credit nor the taxing power of the State or the municipality, as the case may be, are pledged for the payment of the principal or interest of revenue bonds, and no holder of revenue bonds has the right to compel the exercise of the taxing power by the State or the municipality, as the case may be, or the forfeiture of any of its property in connection with any default thereon. Every revenue bond shall recite in substance that the principal of and interest on the bond is payable solely from the revenues pledged to its payment and that the State or the municipality, as the case may be, is not obligated to pay the principal or interest except from such revenues."

Sec. 15. G.S. 159-95 is rewritten to read:

"§ 159-95. *Approval of State agencies.*—The general design and plan of any revenue bond project undertaken for water systems or facilities or sewage disposal systems or facilities shall be subject to the approval of the Commission for Health Services or the State Enviornmental Management Commission to the same extent that such projects would be if they were not financed by revenue bonds, and the provisions of the revenue bond order shall be consistent with any requirements imposed on the project by the Commission for Health Services or the State Environmental Management Commission. No revenue bond project for the acquisition or construction of systems or facilities for the generation, production, or transmission of gas or electric power may be undertaken by the State or a municipality unless the State or municipality, as the case may be, shall first obtain a certificate of convenience and necessity from the North Carolina Utilities Commission."

Sec. 16. G.S. 159-96 is amended by adding a new paragraph at the end to read:

"A revenue bond project financed wholly or partially by revenue bonds of the State may be located either within or without the State and, when operated primarily for the State's own use and for users within the State, may be operated incidentally for users outside the State."

Sec. 17. G.S. 159-120 is rewritten to read:

"§ 159-120. *Definitions.*—As used in this Article, unless the context clearly requires another meaning, the words 'unit' or 'issuing unit' mean 'unit of local government' as defined in G.S. 159-44, 'municipality' as defined in G.S. 159-81, and the State of North Carolina, and the words 'governing body', when used with respect to the State of North Carolina, mean the Council of State."

Sec. 18. Article 7 of Chapter 159 of the General Statutes is amended by adding a new section to read:

"§ 159-141. *Terms and conditions of sale.*—Notwithstanding the foregoing, any bond of the State may be sold upon such terms and conditions, at such interest rate or rates, for such price and in such manner, either public or private, as the State Treasurer shall determine."

Sec. 19. G.S. 159-160 is rewritten to read:

"§ 159-160. *Definitions.*—As used in this Part, the words 'unit' or 'issuing unit' means 'unit of local government' as defined in G.S. 159-44, 'municipality' as defined in G.S. 159-81, and the State of North Carolina."

Sec. 20. G.S. 159-165(a) is rewritten to read:

"(a) Bond anticipation notes of a municipality shall be sold by the Commission at public or private sale according to such procedures as the Commission may prescribe. Bond Anticipation Notes of the State shall be sold by the State Treasurer at public or private sale, upon such terms and conditions, and according to such procedures as the State Treasurer may prescribe."

Sec. 21. The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers not existing; provided, however, that the issuance of bonds and notes under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds or notes.

Sec. 22. This act, being necessary for the health and welfare of the people of the State shall be liberally construed to effect the purposes thereof.

Sec. 23. Insofar as the provisions of this act are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this act shall be controlling.

Sec. 24. Nothing in this act shall be construed to impair the obligation of any bond, note or coupon outstanding on the effective date of this act.

Sec. 25. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 26. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

H. B. 1140 CHAPTER 555

AN ACT TO PERMIT TAKING STRIPED BASS FROM THE TAR RIVER WITH BOW NETS AND DIP NETS UNDER CERTAIN CONDITIONS.

The General Assembly of North Carolina enacts:

Section 1. A new sentence is added at the end of G.S. 113-292(a) to read:

"The Wildlife Resources Commission shall permit the taking of striped bass from the inland fishing waters of the Tar River within Edgecombe County with bow nets and dip nets during such times or seasons when net fishing for striped bass is permitted by the regulations of the Marine Fisheries Commission in the contiguous coastal fishing waters of the Pamlico-Tar River downstream of the inland fishing waters."

Sec. 2. This act is effective upon ratification and shall expire June 30, 1984.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

H. B. 456 **CHAPTER 556**

AN ACT TO REINSTATE PORTIONS OF THE PREVIOUS PROVISIONS OF LAW REGARDING THE TREATMENT OF REEMPLOYED RETIREES IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM AND THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-24(5)c. and G.S. 135-3(8)c. are rewritten to read:

"c. Should a beneficiary who retired on an early or service retirement allowance be restored to service for a period of time exceeding six calendar months, his retirement allowance shall cease, he shall again become a member of the Retirement System and he shall contribute thereafter at the uniform contribution rate payable by all members. Notwithstanding the foregoing, the beneficiary may irrevocably elect to commence membership immediately upon being restored to service, with cessation of his retirement allowance; and, the acceptance of the first monthly retirement allowance after being restored to service shall be an election to delay membership for the aforementioned six calendar months. Upon his subsequent retirement, he shall be entitled to the greater of the two allowances described in 1 and 2 below.

1. The allowance to which he would be entitled had he not been restored to service with cessation of retirement allowance, plus the allowance to which he would be entitled on account of his service after restoration to service and membership; provided, for the sole purpose of determining retirement eligibility on account of his service after restoration, that his creditable service shall be taken as the sum of his creditable service prior to and subsequent to his restoration to service; or
2. The allowance to which he would be entitled if his retirement were commencing for the first time, calculated on the basis of his total creditable service represented by the sum of his creditable service prior to and subsequent to his restoration to service, reduced by the actuarial equivalent of the retirement allowance he previously received; provided, in no event may he alter his Election of Optional Allowance as previously made."

Sec. 2. G.S. 128-24(5) and G.S. 135-3(8) are amended by the addition of a new subdivision designated as "d." to read:

"d. Should a beneficiary who retired on an early or service retirement allowance be employed by an employer participating in the Retirement System as an employee meeting less than the definition of service as used in this Chapter or on a contractual or fee basis for a period of time exceeding six calendar months, and if the beneficiary earns compensation for the employment in any calendar year which exceeds an amount equal to sixty percent (60%) of his gross compensation earned as an employee during the 12 consecutive months in the final 48 months of service prior to retirement producing the highest gross compensation excluding any compensation on account of termination, with the amount indexed as hereinafter provided, then the retirement allowance of the beneficiary shall be reduced by the amount of his earned

compensation which exceeds the sixty percent (60%) of gross compensation prior to retirement; provided, in no event shall the retirement allowance of a beneficiary be less than the amount of his annuity as defined in this Chapter. The amount a beneficiary may earn before reduction shall be increased on January 1 each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%)."

Sec. 3. Any beneficiary in the Local Governmental Employees' Retirement System or the Teachers' and State Employees' Retirement System who was excluded from membership upon return to service on account of the former G.S. 128-24(5)c. or G.S. 135-3(8)c. may elect to repay all retirement allowances received while so excluded plus an amount equal to the member contributions which would otherwise have been made, to the appropriate Retirement System, and thereby establish retroactive membership service. The election and payment of these amounts must be made by December 31, 1983. The employer of the member shall, coincident with the payment by the member, pay to the appropriate Retirement System an amount equal to the employer contributions which would otherwise have been made while the member was so excluded from membership.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

H. B. 832 CHAPTER 557

AN ACT TO ACCELERATE THE PAROLE OF CERTAIN INMATES WHEN NECESSARY FOR EFFECTIVE PRISON MANAGEMENT.

Whereas, the present prison population of the State of North Carolina is in excess of 16,750; and

Whereas, in its proposed budget, the Department of Correction requests additional funding for the 1983-85 biennium sufficient to accommodate 18,700 inmates; and

Whereas, it is incumbent on the General Assembly to act in a fiscally responsible manner to control the costs of the Department of Correction; and

Whereas, there are almost 8,000 inmates in the custody of the Department of Correction who are presently eligible for parole; and

Whereas, no specific legislative authority exists for early release of inmates when necessary for the effective management and administration of the State's prison system; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 148 of the General Statutes is amended by adding the following new section:

"§ 148-4.1. *Release of inmates.*—(a) Whenever the Secretary of Correction determines from data compiled by the Department of Correction that it is necessary to reduce the prison population to a more manageable level, he shall direct the Parole Commission to release on parole over a reasonable period of time a number of prisoners sufficient to that purpose.

(b) Except as provided in subsection (c), only inmates who are otherwise eligible for parole pursuant to Article 85 of Chapter 15A or pursuant to Article 3B of this Chapter may be released under this section.

(c) Persons eligible for parole under Article 85A of Chapter 15A shall be eligible for early parole under this section six months prior to the discharge date otherwise applicable, and three months prior to the date of automatic 90-day parole authorized by G.S. 15A-1380.2."

Sec. 2. G.S. 15A-1380.2(c) is amended by adding a new sentence at the end thereof to read as follows:

"In the case of an inmate eligible for parole under G.S. 148-4.1 of the North Carolina General Statutes, the Parole Commission is authorized to simultaneously parole and terminate supervision of a prisoner when such prisoner has less than 180 days remaining on this maximum sentence, and when the Commission finds that such action will not be incompatible with the public interest."

Sec. 3. G.S. 15A-1380.2(d) is further amended by adding a new sentence at the end to read as follows:

"Provided, that where the Commission feels that supervision is appropriate for a person eligible for parole under the terms of G.S. 148-4.1 of the North Carolina General Statutes, the conditions applicable to such early parole shall be those provided for by G.S. 15A-1374(b) as specified by the Parole Commission."

Sec. 4. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

S. B. 513 CHAPTER 558

AN ACT TO ESTABLISH UNIQUE AND RELEVANT EDUCATION AND TRAINING STANDARDS FOR SHERIFFS, THEIR DEPUTIES, AND OTHER PERSONNEL.

The General Assembly of North Carolina enacts:

Section 1. There is hereby enacted a new Chapter 17E of the General Statutes to read as follows:

"Chapter 17E.

"North Carolina Sheriffs' Education and Training Standards Commission.

"§ 17E-1. *Findings and policy.*—The General Assembly finds and declares that the office of sheriff, the office of deputy sheriff and the other officers and employees of the sheriff of a county are unique among all of the law enforcement offices of North Carolina. The administration of criminal justice has been declared by Chapter 17C of the General Statutes to be of statewide concern to the people of the State. The sheriff is the only officer of local government required by the Constitution. The sheriff, in addition to his criminal justice responsibilities, is the only officer who is also responsible for the courts of the State, and acting as their bailiff and marshall. The sheriff administers and executes criminal and civil justice and acts as the ex officio jailer.

The deputy sheriff has been held by the Supreme Court of this State to hold an office of special trust and confidence, acting in the name of and with powers coterminous with his principal, the elected sheriff.

The offices of sheriff and deputy sheriff are therefore of special concern to the public health, safety, welfare and morals of the people of the State. The

training and educational needs of such officers therefore require particularized and differential treatment from those of the criminal justice officers certified under Chapter 17C of the General Statutes.

"§ 17E-2. *Definitions.*—Unless the context clearly requires otherwise, the following definitions apply to this Chapter:

(a) 'Commission' means the North Carolina Sheriffs' Education and Training Standards Commission.

(b) 'Office' or 'department' means the sheriff of a county, elected by the people as required by the Constitution, his deputies, his employees and such equipment, space, provisions and quarters as are supplied for their use.

(c) 'Justice officer' or 'law enforcement officer' means a person who, through the special trust and confidence of the elected sheriff of the county, has taken the oath of office prescribed by Chapter 11 of these statutes as a peace officer in the office of a sheriff. The term includes 'deputy sheriffs' and 'special deputy sheriffs' but does not include clerical and support personnel not required to take an oath. The term 'special deputy' means a person who, through appointment by the sheriff, becomes an unpaid criminal justice officer to perform a specific act directed to him by the sheriff.

"§ 17E-3. *North Carolina Sheriffs' Education and Training Standards Commission established; members; terms; vacancies.*—(a) There is hereby established the North Carolina Sheriffs' Education and Training Standards Commission. The Commission shall be composed of 16 members as follows:

(1) Sheriffs. Eleven sheriffs representing each of the Congressional districts appointed by the North Carolina Sheriffs' Association, in such manner as shall be prescribed by the Constitution or bylaws of such Association.

(2) Appointees of the General Assembly. One person appointed by the Speaker of the House of Representatives pursuant to Article 16, G.S. 120-121, and one person appointed by the Lieutenant Governor pursuant to Article 16, G.S. 120-121.

(3) County Commissioners. One county commissioner appointed by the Governor as recommended from three nominees from the North Carolina Association of County Commissioners.

(4) Others. The President of the Department of Community Colleges or his designee and the Director of the Institute of Government or his designee shall be ex officio, nonvoting members of the Commission.

(b) Terms. Sheriffs representing Congressional Districts 1, 4, 7, and 10 shall be appointed to a term of one year; sheriffs representing Congressional Districts 2, 5, 8, and 11 shall be appointed to a term of two years; sheriffs representing Congressional Districts 3, 6, and 9 shall be appointed to a term of three years. The appointee of the House of Representatives shall serve a term of two years. The appointee of the Senate shall serve a term of two years. The county commissioner appointed by the North Carolina Association of County Commissioners shall serve a term of two years. After the initial terms established herein have expired, all sheriffs appointed to the Commission shall be appointed to terms of three years.

If an individual ceases to be a sheriff then his seat on the Commission becomes vacated upon his ceasing to be qualified to hold that seat. Any individual appointed or designated to serve on this Commission shall serve until his successor is appointed and qualified.

(c) Vacancies. If any vacancy occurs in the membership of the Commission, the appointing authority shall appoint another person to fill the unexpired term of the vacating member.

(d) Compensation. None of the members of the Commission shall receive compensation for serving on the Commission. However, if the North Carolina Department of Justice has funds available, then members of the Commission who are State officers or employees may be reimbursed for their expenses in accordance with G.S. 138-6; members of the Commission who are full-time salaried public officers or employees other than State officers or employees may be reimbursed for their expenses in accordance with G.S. 138-5(b). All other members of the Commission may receive compensation and reimbursement for expenses in accordance with G.S. 138-5.

(e) Officers. The chairman shall be elected from among the membership. The Commission shall select its other officers from among the membership as it deems necessary. All officers serve for one year, or until successors are qualified.

(f) Removal. The Commission may remove a member for misfeasance, malfeasance, nonfeasance or neglect of duty.

(g) The Commission has power to adopt its own rules of procedure. The Commission shall meet no less than four times a year. It shall also meet on the call of the chairman or vice-chairman, or any four members of the Commission.

(h) The Commission may appoint any resident of the State to an adjunct or special committee created or appointed by it to study or make recommendations or reports on any subject matter related to its duties or the office of sheriff.

"§ 17E-4. *Powers and duties of the Commission.*—(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

(1) Promulgate rules and regulations for the administration of this Chapter, which rules may require (i) the submission by any agency of information with respect to the employment, education, and training of its law enforcement officers, and (ii) the submission by any training school of information with respect to its programs that are required by this Chapter;

(2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent position;

(3) Certify, pursuant to the standards that it may establish for the purpose, persons as qualified under the provisions of this Chapter who may be employed at entry level as officers;

(4) Establish minimum standards for the certification of training schools and programs or courses of instruction that are required by this Chapter;

(5) Certify, pursuant to the standards that it has established for the purpose, training schools and programs or courses of instruction that are required by this Chapter;

(6) Establish standards and levels of education or equivalent experience for teachers who participate in programs or courses of instruction that are required by this Chapter;

(7) Certify, pursuant to the standards that it has established for the purpose, teachers who participate in programs or courses of instruction that are required by this Chapter;
(8) Make such evaluations as may be necessary to determine if agencies are complying with the provision of this Chapter;
(9) Adopt and amend bylaws, consistent with law, for its internal management and control;
(10) Enter into contracts incident to the administration of its authority pursuant to this Chapter.

The Commission may certify, and no additional certification shall be required from it, programs, courses and teachers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Where the Commission determines that a program, course, instructor or teacher is required for an area which is unique to the office of sheriff, the Commission may certify such program, course, instructor, or teacher under such standards and procedures as it may establish.

(b) The Commission shall have the following powers, which shall be advisory in nature and for which the Commission is not authorized to undertake any enforcement actions:
(1) Certify, pursuant to the standards that it has established for the purpose, law enforcement officers for those law enforcement agencies that elect to comply with the minimum education, training, and experience standards established by the Commission for positions for which advanced or specialized training, education, and experience are appropriate;
(2) Consult and cooperate with counties, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, and other institutions, public or private, concerning the development of training schools and programs or courses of instruction;
(3) Study and make reports and recommendations concerning justice education and training in North Carolina;
(4) Conduct and stimulate research by public and private agencies which shall be designed to improve education and training in the administration of justice;
(5) Study, obtain data, statistics, and information and make reports concerning the recruitment, selection, education and training of persons serving justice agencies in this State; to make recommendations for improvement in methods of recruitment, selection, education and training of persons serving sheriffs' departments;
(6) Study and make reports and recommendations to the Governor, Attorney General, Chief Justice, President of the Senate and Speaker of the House, concerning the manpower, salary and equipment needs of the sheriffs of the State;
(7) Make recommendations concerning any matters within its purview pursuant to this Chapter;
(8) Appoint such advisory committees as it may deem necessary;
(9) Do such things as may be necessary and incidental to the administration of its authority pursuant to this Chapter;
(10) Formulate basic plans for and promote the development and improvement of a comprehensive system of education and training for

the officers and employees of agencies consistent with its rules and regulations;

(11) Maintain liaison among municipal, State and federal agencies with respect to education and training;

(12) Promote the planning and development of a systematic career development program for sheriffs' department personnel.

"§ 17E-5. *Functions of the Department of Justice.*—(a) The Attorney General shall provide such staff assistance as the Commission shall require and direct in the performance of its duties.

(b) The Attorney General shall have legal custody of all books, papers, documents, or other records and property of the Commission.

"§ 17E-6. *Justice Officers' Standards Division established; appointment of director; duties.*—(a) There is hereby established, within the Department of Justice, the Justice Officers' Standards Division hereinafter called 'the Division,' which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) The Attorney General shall appoint a director for the Division chosen from a list of nominees submitted to him by the Commission who shall be responsible to and serve at the pleasure of the Attorney General and the Commission.

(c) The Division shall administer such programs as are assigned to it by the Commission. Administrative duties and responsibilities shall include, but are not limited to, the following:

(1) Administering any and all programs assigned to the Division by the Commission and reporting any violations of or deviations from the rules and regulations of the Commission as the Commission may require;

(2) Compiling data, developing reports, identifying needs and performing research relevant to improvement of the agencies;

(3) Developing new and revising existing programs for adoption consideration by the Commission;

(4) Monitoring and evaluating programs of the Commission;

(5) Providing technical assistance to agencies of the justice system to aid them in the discharge of program participation and responsibilities;

(6) Disseminating information on Commission programs to concerned agencies or individuals;

(7) Taking such other actions as may be deemed necessary or appropriate to carry out its assigned duties and responsibilities;

(8) The director may divulge any information in the Division's personnel file of a law enforcement officer or applicant for certification to the head of the department employing the officer or considering the applicant for employment when the director deems it necessary and essential to the retention or employment of said officer or applicant. The information may be divulged whether or not such information was contained in a personnel file maintained by a State or by a local government agency.

"§ 17E-7. *Required standards.*—(a) Officers shall not be required to meet any requirements of subsections (b) and (c) of this section as a condition of continued employment, nor shall failure of any such justice officer to fulfill such requirements make him ineligible for any promotional examination for which he is otherwise eligible if the officer held an appointment prior to July 1, 1983,

and is a sworn law enforcement officer with power of arrest. The legislature finds, and it is hereby declared to be the policy of this Chapter, that such officers have satisfied such requirements by their experience. It is the intent of the Chapter that all law enforcement officers employed at the entry level after the Commission has adopted the required standards shall meet the requirements of this Chapter.

(b) The Commission shall provide, by regulation, that no person may be appointed as a law enforcement officer at entry level, except on a temporary or probationary basis, unless such person has satisfactorily completed an initial preparatory program of training at a school certified by the Commission or has been exempted from that requirement by the Commission pursuant to this Chapter. Upon separation of a law enforcement officer from a sheriff's department within the temporary or probationary period of appointment, the probationary certification shall be terminated by the Commission. Upon the reappointment to the same department or appointment to another department of an officer who has separated from a department within the probationary period, the officer shall be charged with the amount of time served during his initial appointment and allowed the remainder of the probationary period to complete the basic training requirement. Upon the reappointment to the same department or appointment to another department of an officer who has separated from a department within the probationary period and who has remained out of service for more than one year from the date of separation, the officer shall be allowed another probationary period to complete such training as the Commission shall require by rule for an officer returning to service.

(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, may fix other qualifications for the employment and retention of law enforcement officers including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of the office, and the Commission shall prescribe the means for presenting evidence of fulfillment of these requirements.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Upon petition from a sheriff, the Commission may grant a waiver of any provisions of this section (17E-7) for any deputy serving that sheriff.

(d) The Commission may issue a certificate evidencing satisfaction of the requirements of subsections (b) and (c) of this section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction.

"§ 17E-8. *Special requirements; authorizations.*—(a) Nothing in this Chapter shall be construed as a condition precedent to the taking of the oath of office or the exercise of the powers, duties or privileges of the offices of sheriff or deputy.

(b) Any sheriff or deputy sheriff, who has taken the oath of office, or person who has received a special deputation for the purpose from the sheriff, acts validly, and his arrests, executions, levies and sales are valid, without regard to whether he has complied with this Chapter or the rules or regulations adopted

under this Chapter, unless he has been ordered to cease and desist from such actions by the court, or pursuant to G.S. 17E-9.

"§ 17E-9. *Compliance; enforcement.*—Any law enforcement officer appointed on a temporary or probationary basis who does not comply with the training provisions of this Chapter within the probationary period of certification or any extension of such probationary period of certification authorized by the Commission, shall not be authorized to exercise the powers of a law enforcement officer and shall not be authorized to exercise the power of arrest unless such certification has been waived by the Commission. The Commission shall enforce the provisions of the subsection by the entry of appropriate orders.

"§ 17E-10. *Donations to the Commission; grants and appropriation.*—(a) The Commission may accept for any of its purposes and functions under this Chapter any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of same. Any arrangement pursuant to this section shall be detailed in a biennial report of the Commission to the General Assembly. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any money received by the Commission pursuant to this section shall be deposited in the State Treasury to the account of the Commission.

(b) The Commission may authorize grants pursuant to this section and consistent with the powers conferred upon the Commission under Section 6 of this Chapter.

(c) The Commission in providing for the administration of the grant program authorized by this section shall promote the most efficient and economical program of criminal justice education and training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication.

(d) The Commission may provide grants as a reimbursement for actual expenses incurred by the State or any political subdivision thereof for the provision of training programs providing said political subdivisions and State law enforcement agencies do adhere to the selection and training standards established by the Commission.

"§ 17E-11. (a) Nothing in this Chapter shall apply to the sheriff elected by the people.

(b) Nothing in this Chapter shall be construed as modifying the character of a sheriff from an elective office, or as modifying the character of the office of deputy sheriff from an appointive office."

Sec. 2. G.S. 17C-2(b) as the same appears in the 1981 Cumulative Supplement to 1978 Replacement Volume 1C of the General Statutes is hereby amended at the end of that subsection following the words "juvenile justice agencies" by adding the words ", but shall not include deputy sheriffs, special deputy sheriffs, or other sheriffs' department personnel governed by the provisions of Chapter 17E of these General Statutes;".

Sec. 3. G.S. 17C-3(a) as the same appears in the 1982 Interim Supplement to 1981 Cumulative Supplement to 1978 Replacement Volume 1C of the General Statutes is hereby amended on line 4 of the subsection before the word "members" by replacing the number "25" with the number "21". Subdivision "(1)" is hereby repealed.

Sec. 4. Chapter 143A of the General Statutes is hereby amended by adding thereto a new Section 143A-55.2 to read as follows:

"§ 143A-55.2. *North Carolina Sheriffs' Education and Training Standards Commission; transfer.*—The North Carolina Sheriffs' Education and Training Standards Commission, as created by Chapter 17E of the General Statutes and laws of this State, is hereby transferred by a Type II transfer as defined in G.S. 143A-6(b) to the Department of Justice."

Sec. 5. G.S. 120-123 as the same appears in the 1982 Interim Supplement to the General Statutes is amended by adding thereto a new subsection (33) to read as follows:

"(33) The North Carolina Sheriffs' Education and Training Standards Commission, established by G.S. 17E."

Sec. 6. The provisions of Chapter 17C as they pertain to sheriffs and their deputies shall no longer apply.

Sec. 7. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

S. B. 280 CHAPTER 559

AN ACT TO AMEND AND CLARIFY THE PROVISIONS OF LAW RELATIVE TO THE NORTH CAROLINA PUBLIC EMPLOYEE DEFERRED COMPENSATION PLAN.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 23.

"Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan.

"§ 143B-426.31. *Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan.*—(a) The Governor may, by Executive Order, establish a Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan, which when established shall be constituted an agency of the State of North Carolina within the Department of Administration. The Board shall create, establish, implement, coordinate and administer a Deferred Compensation Plan for State employees. Until so established, the Board heretofore established pursuant to Executive Order XII dated 12 November 1974 shall continue in effect. Likewise, the Plan heretofore established shall continue until a new plan is established.

(b) The Board shall consist of seven voting members, as follows:

(1) Three persons shall be appointed by the Governor who shall have experience with taxation, finance and investments, and one of whom shall be a State employee;

(2) One member shall be appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives under G.S. 120-121;

(3) One member shall be appointed by the General Assembly upon recommendation of the President of the Senate under G.S. 120-121;

(4) The State Treasurer, ex officio; and

(5) The Secretary of Administration, ex officio, chairman.

(c) General Assembly appointments shall serve two year terms. A member shall continue to serve until his successor is duly appointed but a holdover under this provision does not affect the expiration date of the succeeding term. No member of the Board may serve more than three consecutive two year terms.

(d) In case of a vacancy on the Board before the expiration of a member's term, a successor shall be appointed within 30 days of the vacancy for the remainder of the unexpired term by the appropriate official pursuant to subsection (b). Vacancies in legislative appointments shall be filled under G.S. 120-122.

(e) Other than ex officio members, members appointed by the Governor shall serve at his pleasure.

(f) Any ex officio member may designate in writing, filed with the Board, any employee of his department to act at any meeting of the Board from which the member is absent, to the same extent that the member could act if present in person at such meeting.

(g) It shall be the duty of the Board when established to review all contracts, agreements or arrangements then in force relating to G.S. 147-9.2 and Executive Order XII to include, but not be limited to, such contracts, agreements or arrangements pertaining to the administrative services and the investment of deferred funds under the Plan for the purpose of recommending continuation of or changes to such contracts, agreements or arrangements.

(h) It shall be the duty of the Board to devise a uniform Deferred Compensation Plan for State employees, which shall include a reasonable number of options to the employee, for the investment of deferred funds, among which may be life insurance, fixed or variable annuities and retirement income contracts, regulated investment trusts, pooled investment funds managed by the Board or its designee, or other forms of investment approved by the Board, always in such form as will assure the desired tax treatment of such funds. The Board may alter, revise and modify the Plan from time to time to improve the Plan or to conform to and comply with requirements of State and federal laws and regulations relating to the deferral of compensation of public employees generally.

(i) The Board is authorized to delegate the performance of such of its administrative duties as it deems appropriate including coordination, administration, and marketing of the Plan to employees. Prior to entering into any contract with respect to such administrative duties, it shall seek bids, hold public hearings and in general take such steps as are calculated by the Board to obtain competent, efficient and worthy services for the performance of such administrative duties.

(j) The Board may acquire investment vehicles from any company duly authorized to conduct such business in this State or may establish, alter, amend and modify, to the extent it deems necessary or desirable, a trust for the purpose of facilitating the administration, investment and maintenance of assets acquired by the investment of deferred funds. Any assets of such investment vehicles or trusts shall remain solely the property and rights of the State subject only to the claims of the State's general creditors.

(k) Members of the Board, who are not officers or employees of the State, shall receive per diem and necessary travel and subsistence in accordance with the provisions of G.S. 138-5, funded as provided in subsection (m) hereof.

(l) All clerical and other services and personnel required by the Board shall be supplied by the Secretary of Administration, funded as provided in subsection (m) hereof.

(m) Investment of deferred funds shall not be unreasonably delayed, and in no case shall the investment of deferred funds be delayed more than 30 days. The Board may accumulate such funds pending investment, and the interest earned on such funds pending investment shall be available to and may be spent in the discretion of the Board only for the reasonable and necessary expenses of the Board. The Secretary of Administration is authorized to prescribe guidelines for the expenditure of such funds by the Board. From time to time as the Board may direct, funds not required for such expenses may be used to defray administrative expenses and fees which would otherwise be required to be borne by employees who are then participating in the Plan.

(n) A majority of the Board shall constitute a quorum for the transaction of business.

(o) It is intended that the provisions of this Part shall be liberally construed to accomplish the purposes provided for herein."

Sec. 2. G.S. 147-9.2 is amended by:

(1) renumbering present paragraph (1), to be paragraph (1a);

(2) inserting a new paragraph (1) to read:

"(1) 'Board' shall mean the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan established pursuant to Chapter 433 of the 1971 Session Laws and G.S. 143B-426.31;"; and by

(3) inserting a new paragraph to read:

"(4) 'Plan' shall mean the North Carolina Public Employee Deferred Compensation Plan."

Sec. 3. G.S. 147-9.4 is rewritten to read:

"§ 147-9.4. *Deferred Compensation Plan.*—Notwithstanding the provisions of G.S. 147-62, and notwithstanding any provision of law relating to salaries or salary schedules of State employees, the chief executive officer of an employer, on behalf of the employer, may from time to time enter into a contract with an employee under which the employee irrevocably elects to defer receipt of a portion of his scheduled salary in the future, but only if, as a result of such contract, the income so deferred is deferred pursuant to the Plan provided for in G.S. 143B-426.31 or pursuant to some other plan established before 1 January 1983, and is not constructively received by the employee in the year in which it was earned, for State and federal income tax purposes. In addition, the income so deferred shall be invested in the manner provided in the applicable Plan; however, the employee may revoke his election to participate and may amend the amount of compensation to be deferred by signing and filing with the Board a written revocation or amendment on a form and in the manner approved by the Board. Any such revocation or amendment shall be effective prospectively only and shall cause no change in the allocation of amounts invested prior to the filing date of such revocation or amendment.

An employee who has agreed to the deferral of income pursuant to the Plan shall have the right to receive the income so deferred only in accordance with the provisions of the Plan. Funds so deferred shall not be in lieu of any amount earned by the employee before his election to defer compensation became effective. The agreement to defer income referred to herein shall be effective under such necessary regulations and procedures as are adopted by the Board,

and on forms prepared or approved by it. Notwithstanding any other provisions of law, the amount by which the salary of an employee is deferred pursuant to the Plan shall not be excluded, but shall be included, in computing and making payroll deductions for social security and retirement system purposes, if any, and in computing and providing matching funds for retirement system purposes, if any."

Sec. 4. G.S. 120-123 is amended by adding a new subdivision to read:

"(33) The Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan, as established by G.S. 143B-426.31."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

S. B. 404 CHAPTER 560

AN ACT TO CLARIFY STATUTORY PROVISIONS REGARDING GOOD CONDUCT TIME CREDITS IN REDUCTION OF PRISON SENTENCES.

Whereas, Chapters 15A and 148 of the General Statutes contain ambiguous provisions regarding eligibility of criminal offenders sentenced to a period of imprisonment as an incident or condition of special probation to receive good conduct and gain time credits under the provisions of G.S. 15A-1340.7(b), 15A-1355(c), and 148-13; and

Whereas, a provision of the General Statutes was enacted on June 4, 1979, as Section 8 of Chapter 749 of the 1979 Session Laws, which specified that the aforementioned criminal offenders were to serve their periods of imprisonment on a "day-for-day" basis, and then on June 4, 1979, the General Assembly ratified legislation that prospectively repealed the foregoing enactment in Section 4 of Chapter 760 of the 1979 Session Laws, the effective date of which repeal was July 1, 1981; and

Whereas, periods of imprisonment imposed as a condition of special probation cannot exceed six months, the manner in which the imprisonment is to be served resting within the discretion of the court; and

Whereas, the court may impose noncontinuous periods of imprisonment as a condition of special probation; and

Whereas, the court has the authority under G.S. 15A-1344(e) and G.S. 15A-1351(a) to revoke a sentence of special probation and impose the sentence to imprisonment suspended in lieu of the term of special probation, which authority may be exercised as a sanction for violations of prison and detention facility rules to provide for the maintenance of order and discipline; and

Whereas, the repeal of the statutory requirement that criminal offenders sentenced to a term of special probation and a period of imprisonment as a condition thereof serve their sentences on a "day-for-day" basis was inadvertent and that amendments to the provisions of Chapters 15A and 148 of the North Carolina General Statutes are necessary to clarify this statutory requirement; and

Whereas, it is the policy and intent of the General Assembly that these criminal offenders serve their sentences on a "day-for-day" basis without good conduct or gain time credits in reduction of the periods of imprisonment imposed by the court; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1355(c) is amended by rewriting the second sentence to read:

"The provisions of this subsection do not apply to persons convicted of Class A or Class B felonies nor to persons sentenced to a term of special probation under G.S. 15A-1344(e) or G.S. 15A-1351(a)."

Sec. 2. G.S. 15A-1340.7(a) is amended by adding the following new sentence at the end:

"Defendants sentenced to a term of special probation under G.S. 15A-1344(e) or G.S. 15A-1351(a) are not subject to subsection (b) or to G.S. 148-13(b) for the purposes of good time or gain time deductions."

Sec. 3. G.S. 148-13 is amended by adding a new subsection to read:

"(f) The provisions of this section do not apply to persons sentenced to a term of special probation under G.S. 15A-1344(e) or G.S. 15A-1351(a)."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

H. B. 455 CHAPTER 561

AN ACT TO ESTABLISH UNIFORM REGULAR AND SPECIAL CONDITIONS OF PROBATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1343(b) is rewritten to read as follows:

"(b) Regular Conditions. As regular conditions of probation, a defendant must:

(1) Commit no criminal offense in any jurisdiction.

(2) Remain within the jurisdiction of the court unless granted written permission to leave by the court or his probation officer.

(3) Report as directed by the court or his probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment.

(4) Support his dependents.

(5) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269 without the written permission of the court.

(6) Pay ten dollars ($10.00) per month for probation supervision to the clerk of superior court. The clerk of superior court must transmit this money to the State of North Carolina to be deposited in the General Fund. No person placed on supervised probation may be required to pay more than one supervision fee per month.

(7) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment.

(8) Notify the probation officer if he fails to obtain or retain satisfactory employment.

(9) Pay the costs of court, any fine ordered by the court, and make restitution or reparation as provided in subsection (d).

(10) Pay the State of North Carolina for the costs of appointed counsel or public defender to represent him in the case(s) for which he was placed on probation.

(11) At a time to be designated by his probation officer, visit with his probation officer a facility maintained by the Division of Prisons.

In addition to these regular conditions of probation, a defendant required to serve an active term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned and report to a probation officer in the State of North Carolina within 72 hours of his discharge from the active term of imprisonment.

Regular conditions of probation apply to each defendant placed on supervised probation unless the presiding judge specifically exempts the defendant from one or more of the conditions in open court and in the judgment of the court. It is not necessary for the presiding judge to state each regular condition of probation in open court, but the conditions must be set forth in the judgment of the court.

Defendants placed on unsupervised probation are subject to the provisions of this subsection, except that defendants placed on unsupervised probation are not subject to the regular conditions contained in subdivisions (2), (3), (6), (8), and (11)."

Sec. 2. G.S. 15A-1343 is amended by adding a new subsection (b1) to read as follows:

"(b1) Special Conditions. In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

(1) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(2) Attend or reside in a facility providing rehabilitation, instruction, recreation, or residence for persons on probation.

(3) Submit to imprisonment required for special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e).

(4) Surrender his driver's license to the clerk of superior court, and not operate a motor vehicle for a period specified by the court.

(5) Compensate the Department of Natural Resources and Community Development or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estaurine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Natural Resources and Community Development or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).

(6) Perform community or reparation service and pay any fee required by law or ordered by the court for participation in the community or reparation service program.

(7) Submit at reasonable times to warrantless searches by a probation officer of his person and of his vehicle and premises while he is present, for purposes specified by the court and reasonably related to his probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful.

(8) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.

(9) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation."

Sec. 3. G.S. 15A-1343(d) is amended by deleting the fourth sentence of that subsection.

Sec. 4. G.S. 15A-1343(e), as amended by Chapter 135 of the 1983 Session Laws, is rewritten to read as follows:

"(e) Direct Repayment of Appointed Counsel. With the consent of counsel appointed by the court to represent the defendant, the court may order that money received pursuant to subdivision (b)(10) for the payment of the counsel's fee be paid to the clerk on behalf of the counsel. The clerk must promptly pay to the appointed counsel any money received on his behalf."

Sec. 5. G.S. 15A-1343(f) is repealed.

Sec. 6. G.S. 15A-1343 is amended by adding a new subsection (g) to read as follows:

"(g) Probation Officer May Determine Payment Schedules. If a person placed on supervised probation is required as a condition of that probation to pay any monies to the clerk of superior court, the court may delegate to a probation officer the responsibility to determine the payment schedule. The court may also authorize the probation officer to transfer the person to unsupervised probation after all the monies are paid to the clerk. If the probation officer transfers a person to unsupervised probation, he must notify the clerk of that action."

Sec. 7. Subsection (g) of G.S. 15A-1342 is rewritten as follows:

"(g) Invalid Conditions; Timing of Objection. The regular conditions of probation imposed pursuant to G.S. 15A-1343(b) are in every circumstance valid conditions of probation. A court may not revoke probation for violation of an invalid condition imposed pursuant to G.S. 15A-1343(b1). The failure of a defendant to object to a condition of probation imposed pursuant to G.S. 15A-1343(b1) at the time such a condition is imposed does not constitute a waiver of the right to object at a later time to the condition."

Sec. 8. This act shall become effective October 1, 1983, and shall apply to persons placed on probation on or after that date. Section 4 of this act shall expire on July 1, 1985.

In the General Assembly read three times and ratified, this the 20th day of June, 1983.

H. B. 471 CHAPTER 562

AN ACT TO REQUIRE A SUPERVISION FEE OF ALL PERSONS PLACED ON PAROLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1374 is amended by adding a new subsection to read:

"(c) Supervision Fee. The Commission must require as a condition of parole that the parolee pay a supervision fee of ten dollars ($10.00) per month. The Commission may exempt a parolee from this condition of parole only if it finds that requiring him to pay the fee will constitute an undue economic burden. The fee must be paid to the clerk of superior court designated by the Commission. The clerk must transmit any money collected pursuant to this subsection to the State to be deposited in the General Fund of the State. In no event shall a person released on parole be required to pay more than one supervision fee per month."

Sec. 2. This act shall become effective October 1, 1983, and shall apply to persons released on parole on or after that date.

In the General Assembly read three times and ratified, this the 20th day of June, 1983.

H. B. 744 CHAPTER 563

AN ACT TO AMEND G.S. 14-320.1 TO RECOGNIZE CHILD CUSTODY ORDERS ISSUED IN OTHER STATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-320.1 is amended by deleting the words "When any court of competent jurisdiction in this State" in the first sentence and replacing them with the words "When any federal court or state court in the United States".

Sec. 2. This act shall become effective October 1, 1983, and shall apply to offenses committed on or after that date.

In the General Assembly read three times and ratified, this the 20th day of June, 1983.

H. B. 947 CHAPTER 564

AN ACT CONCERNING THE HARBORING OF INDIVIDUALS KNOWN TO BE THE SUBJECT OF OUTSTANDING WARRANTS FOR ARREST.

The General Assembly of North Carolina enacts:

Section 1. The caption to G.S. 14-259 is rewritten to read "Harboring or aiding certain persons".

Sec. 2. The first paragraph of G.S. 14-259 is rewritten to read:

"It shall be unlawful for any person knowing or having reasonable cause to believe, that any person has escaped from any prison, jail, reformatory, or from the criminal insane department of any State hospital, or from the custody of any peace officer who had such person in charge, or that such person is a convict or prisoner whose parole has been revoked, or that such person is a fugitive from justice or is otherwise the subject of an outstanding warrant for arrest or order of arrest, to conceal, hide, harbor, feed, clothe or otherwise aid and

comfort in any manner to any such person. Fugitive from justice shall, for the purpose of this provision, mean any person who has fled from any other jurisdiction to avoid prosecution for a crime."

Sec. 3. The last paragraph of G.S. 14-259 is amended by deleting the word "escapee" in both places where it appears and substituting the word "person" therefor.

Sec. 4. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of June, 1983.

H. B. 1202 CHAPTER 565

AN ACT TO REQUIRE THE FILING OF A NOTICE OF APPEAL WITHIN THIRTY DAYS IN ALL APPEALS TAKEN FROM DECISIONS OR ORDERS OF THE PROPERTY TAX COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-345(a) is amended by deleting the phrase: ", or within such time thereafter as may be fixed by the Commission, by order made within 30 days,".

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of June, 1983.

H. B. 1288 CHAPTER 566

AN ACT REGARDING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS RECEIVED AND EXPENDED IN PERSON COUNTY BETWEEN JULY 1, 1983 AND JUNE 30, 1985.

The General Assembly of North Carolina enacts:

Section 1. Community Development Block Grant funds received and expended in Person County between July 1, 1983 and June 30, 1985, shall be expended pursuant to federal law and regulations only and such expenditure shall not be further limited or prescribed by the laws or regulations of this State.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1983.

S. B. 90 CHAPTER 567

AN ACT TO AMEND CHAPTER 15A OF THE GENERAL STATUTES TO ESTABLISH PROCEDURES TO INSURE PAYMENT OF CHILD SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 15A is amended by adding a new section to read as follows:

"§ 15A-1344.1. *Procedure to insure payment of child support.*—(a) When the court requires, as a condition of supervised or unsupervised probation, that a defendant support his children, the court may order at any time that support payments be made to the clerk of court for remittance to the party entitled to receive the payments.

(b) After entry of such an order by the court, the clerk of court shall maintain records listing the amount of payments, the date payments are required to be made, and the names and addresses of the parties affected by the order.

(c) The parties affected by the order shall inform the clerk of court of any change of address or of other condition that may affect the administration of the order. The court may provide in the order that a defendant failing to inform the court of a change of address within reasonable period of time may be held in violation of probation.

(d) When a defendant fails to make required payments of child support, and is in arrears of said payments, the clerk of superior court may mail by regular mail to the last known address of the defendant a notice of delinquency which shall set out the amount of child support currently due and which shall demand immediate payment of said amount. The failure to receive said delinquency notice shall not be a defense in any probation violation hearing thereafter. If the arrearage is not paid in full within 21 days after the mailing of said notice, or is not paid within 30 days after the defendant becomes delinquent if the clerk has elected not to send a delinquency notice, the clerk shall certify the amount due to the district attorney and probation officer, who shall initiate proceedings for revocation of probation pursuant to Article 82 of Chapter 15A."

Sec. 2. G.S. 15A-1343(b)(5) is amended to read as follows:

"(5) Satisfy child support and other family obligations as required by the court."

Sec. 3. This act shall become effective October 1, 1983. The Director of the Budget is authorized to transfer for the fiscal years 1983-84 and 1984-85 related savings from the Department of Human Resources, Division of Social Services to the Judicial Department sufficient for the establishment of necessary positions and other expenses to implement this act. It is not mandatory that this act be implemented until such funds are transferred.

In the General Assembly read three times and ratified, this the 20th day of June, 1983.

S. B. 402 CHAPTER 568

AN ACT TO MAKE CERTAIN REVISIONS AND ADDITIONS TO THE CREDIT UNION LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54-109.2(b)(3) is rewritten to read as follows:

"(3) The initial par value of the shares of the credit union."

Sec. 2. G.S. 54-109.21(25) is rewritten to read:

"(25) engage in activity permitted under this subsection. Notwithstanding any other provision of this Chapter, the Administrator of Credit Unions, subject to the advice and consent of the Credit Union Commission, and upon a finding that action is necessary to preserve and protect the welfare of credit unions and to promote the general economy of the State, may adopt rules allowing State-chartered credit unions to engage in any activity in which they could engage if they were federally chartered credit unions."

Sec. 3. G.S. 54-109.54 is rewritten to read as follows:

"§ 54-109.54. *Dividends.*—The board of directors of any credit union may declare dividends as its bylaws provide."

Sec. 4. The first paragraph of G.S. 54-109.65 is rewritten to read as follows:

"§ 54-109.65. *Purposes, terms and interest rate.*—A credit union may loan to its members for such purpose and upon such security and terms as the board of directors prescribes at rates of interest not exceeding eighteen percent (18%) annual percentage rate, unless a greater rate not to exceed the annual percentage rate permitted to be charged by federally chartered credit unions, is otherwise approved by the Credit Union Commission. Such action by the Commission will be uniform and apply to all credit unions."

Sec. 5. G.S. 54-109.67 is rewritten to read as follows:

"§ 54-109.67. *Loan limit.*—No loan shall be made to any member in an aggregate amount in excess of ten percent (10%) of the credit union's unimpaired capital and surplus. In accordance with the bylaws and subject to such rules and regulations as the Administrator may prescribe, the Board of Directors shall determine and set the maximum unsecured loan limits subject to the limitation contained in the preceding sentence."

Sec. 6. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of June, 1983.

S. B. 408 CHAPTER 569

AN ACT TO AMEND THE LAW GOVERNING PLUMBING AND HEATING CONTRACTORS TO REDEFINE "HEATING, GROUP NUMBER THREE" AND "CONTRACTOR".

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-21(a)(4) is amended by adding at the end thereof the following: "A heating system requiring air distribution ducts and supplied by ground water or utilizing a coil supplied by water from a domestic hot water heater not exceeding 150° Fahrenheit requires either plumbing or heating group number one license to extend piping from valved connections in the domestic hot water system to the heating coil and requires either heating group number one or heating group number three license for installation of coil, duct work, controls, drains and related appurtenances."

Sec. 2. G.S. 87-21(a)(5) is amended by adding a sentence at the end to read: "Any person who installs a plumbing or heating system on property which at the time of installation was intended for sale or to be used primarily for rental is deemed to be engaged in the business of plumbing or heating contracting without regard to receipt of consideration, unless exempted elsewhere in this Article."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1983.

S. B. 357 **CHAPTER 570**

AN ACT TO REVISE THE LICENSE PROVISIONS PERTAINING TO MARINE FISHERIES AND TO REPEAL THE SEAFOOD TAX.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of G.S. 113-151.1 is repealed and a new paragraph is added to G.S. 113-151.1 to read:

"License agents shall be compensated by retaining fifty cents (50¢) from each license sold. If more than one license is listed on a consolidated license form, the license agent shall be compensated as if a single license were sold and he shall retain fifty cents (50¢)."

Sec. 2. The second paragraph of G.S. 113-152(a) is amended by adding a new sentence on the end to read: "Commercial fishing operations also includes taking people fishing for hire."

Sec. 3. G.S. 113-152(c) is amended by deleting subdivisions (1) through (4a) and inserting the following in lieu thereof:

"(1) Vessels, without motors, regardless of length when used in connection with other licensed vessels, no license required.

(2) Vessels with or without motors not over 18 feet in length, one dollar ($1.00) per foot.

(3) Vessels with or without motors over 18 feet but not over 38 feet in length, one dollar and fifty cents ($1.50) per foot.

(4) Vessels with or without motors over 38 feet in length, three dollars ($3.00) per foot.

(4a) Vessels owned by persons who are not residents of North Carolina, two hundred dollars ($200.00) in addition to the fee requirement otherwise applicable under this subsection or subsection (d)."

Sec. 4. G.S. 113-152(d)(1) is amended by deleting the language "one dollar and sixty cents ($1.60)" and substituting "two dollars ($2.00)".

Sec. 5. G.S. 113-152(a) is amended by rewriting the first sentence of the last paragraph to read:

"Nothing in this section shall require the licensing of any vessel used solely for oystering, scalloping, or clamming by a person not required to have an oyster, scallop, and clam license under the provisions of G.S. 113-154."

Sec. 6. G.S. 113-152(d)(3) is repealed.

Sec. 7. G.S. 113-152(f) is rewritten to read:

"(f) No person exempt from the oyster, scallop, and clam license under the provisions of this Article may take more than:

(1) One bushel of oysters per person per day, not to exceed two bushels per vessel per day;

(2) One-half bushel of scallops per person per day, not to exceed one bushel per vessel; and

(3) One hundred clams per person per day, not to exceed two hundred per vessel per day."

Sec. 8. G.S. 113-154 is amended by deleting the word "oyster" wherever it appears and substituting "oyster, scallop," and by deleting the word "oysters" wherever it appears and substituting "oysters, scallops,".

Sec. 9. G.S. 113-154(c) is amended by deleting the language "one dollar ($1.00) upon proof that the license applicant is a resident of North Carolina" and substituting "four dollars ($4.00) upon proof that the license applicant is a

resident of North Carolina: Provided, that persons under 16 years of age are exempt from the license requirements of this section if they are accompanied by their parent or guardian who is in compliance with the requirements of this section or if they have in their possession their parent's or guardian's oyster, scallop, and clam license."

Sec. 10. G.S. 113-155 is repealed.

Sec. 11. G.S. 113-156(e) is amended by renumbering subdivisions "(5)" and "(6)" as "(7)" and "(8)" and by rewriting subdivisions (1) through (4) to read:

"(1) Dealing in oysters:

a. Oyster shucker-packer (including sale of shell stock), one hundred dollars ($100.00).

b. Oyster shell stock shipper, fifty dollars ($50.00).

(2) Dealing in scallops:

a. Scallop shucker-packer (including sale of shell stock), one hundred dollars ($100.00).

b. Scallop shell stock shipper, fifty dollars ($50.00).

(3) Dealing in clams:

a. Clam shucker-packer (including sale of shell stock), one hundred dollars ($100.00).

b. Clam shell stock shipper, fifty dollars ($50.00).

(4) Dealing in hard and soft crabs:

a. Crab processor (including dealing in unprocessed crabs), one hundred dollars ($100.00).

b. Unprocessed crab dealer, fifty dollars ($50.00).

(5) Dealing in shrimp:

a. Shrimp processor (including dealing in unprocessed shrimp), one hundred dollars ($100.00).

b. Unprocessed shrimp dealer, fifty dollars ($50.00).

(6) Dealing in finfish:

a. Finfish processor (including dealing in unprocessed finfish), one hundred dollars ($100.00).

b. Unprocessed finfish dealer, fifty dollars ($50.00)."

Sec. 12. G.S. 113-157 is repealed.

Sec. 13. Chapter 113 of the General Statutes is hereby amended by adding thereto, following G.S. 113-156, a new G.S. 113-156.1 to read as follows:

"§ 113-156.1. *Licensing of ocean fishing piers; fees.*—(a) Every manager of an ocean fishing pier within the coastal fishing waters who charges the public a fee to fish in any manner from the pier must secure a current and valid pier license from the Department. The manager in his license application must disclose the names of all parties involved in the pier operations, including the owner of the property, owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest.

(b) Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager must secure a replacement pier license from the Department. The replacement license is issued without charge.

(c) The pier license authorizes the manager and all employees utilized in operating the pier to engage in the activities of fish dealers, except for dealing in shellfish, without any dealer license or licenses required by G.S. 113-156.

(d) Pier licenses are issued upon payment of fifty cents (50¢) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the

mean high tide line. The length of the pier must be measured to include all extensions of the pier.

(e) The manager who secures the pier license must be the individual with the duty of executive-level supervision of pier operations."

Sec. 14. G.S. 113-153 is amended by deleting the word "either" after the word "Carolina", in the fourth line of the first sentence and by deleting in the fifth and sixth lines the words "or by complying, if eligible, with the provisions of G.S. 113-155".

Sec. 15. G.S. 113-156(b) is amended by rewriting subdivision (3) to read as follows:

"(3) Fishermen who sell their catch exclusively to fish dealers licensed under this section if the fish taken by any fisherman meets one of the following requirements:

a. The fish were taken lawfully in coastal fishing waters other than through the use of a vessel licensed under G.S. 113-152, and the value of such fish sold does not exceed five hundred dollars ($500.00) in any 12-month period.

b. The fish were taken in a commercial fishing operation meeting all licensing requirements, and he was a party to the operation.

c. The fish were taken by him, whether by sports or commercial methods, through the use of a vessel currently and validly licensed under G.S. 113-152.

d. The fish were taken by him in inland fishing waters in conformity with the laws and regulations administered by the Wildlife Resources Commission and are of a type permitted to be sold by the Wildlife Resources Commission.

e. The fish taken were oysters, scallops, or clams and the person satisfies the dealer that he took them or participated in the taking, that he then had a current and valid oyster, scallop, and clam license issued to him personally, and that they were taken lawfully."

Sec. 16. G.S. 113-152(b) and G.S. 113-154(d) are amended to delete the phrase "15 days" wherever it appears and to substitute the phrase "30 days".

Sec. 17. G.S. 113-158 is amended to delete subsection (a) and to revise the caption to the section to read: "*Permits to transplant oysters and clams.*—".

Sec. 18. G.S. 113-162 is amended to recaption the section and to rewrite subsection (a) to read as follows:

"§ 113-162. *Fraud or deception as to licenses, permits, or records.*—(a) It is unlawful for any person to give any false information or willfully to omit giving required information to the Department or any license agent when the information is material to the securing of any license or permit under this Article. It is unlawful to falsify, fraudulently alter, or counterfeit any license, permit, identification, or record to which this Article applies or otherwise practice any fraud or deception designed to evade the provisions of this Article or reasonable administrative directives made under the authority of this Article."

Sec. 19. G.S. 113-164 is amended to delete the word "seafood" in the caption and to substitute the phrase "fisheries resources" and to rewrite the first sentence of the section to read as follows: "The Marine Fisheries Commission may make reasonable regulations governing possession, transportation, and disposition of fisheries resources by all persons, including

those not subject to fish-dealer licensing requirements, in order that inspectors may adequately distinguish regulated coastal fisheries resources from those not so regulated and enforce the provisions of this Article equitably and efficiently."

Sec. 20. G.S. 113-165 is rewritten to read as follows:

"§ 113-165. *Violations with respect to coastal fisheries resources.*—It is unlawful to take, possess, transport, process, sell, buy, or in any way deal in coastal fisheries resources without conforming with the provisions of this Article or of regulations made under the authority of this Article."

Sec. 21. G.S. 105-164.13(9) is rewritten to read as follows:

"(9) Sales of boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints, parts, accessories, and supplies to persons for use by them principally in commercial fishing operations within the meaning of G.S. 113-152, except when the property is for use by persons principally to take fish for recreation or personal use or consumption. As used in this subdivision, 'fish' is defined as in G.S. 113-129(7)."

Sec. 22. The last two sentences of G.S. 113-152(b) are rewritten to read as follows: "The Marine Fisheries Commission may provide by regulation for the replacement of lost, obliterated, destroyed, or otherwise illegible license plates or decals upon tender of the original license receipt or upon other evidence that the Marine Fisheries Commission deems sufficient. The Department may charge a fee of fifty cents (50¢) for replacement of a plate or decal."

Sec. 23. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 21st day of June, 1983.

H. B. 384 CHAPTER 571

AN ACT TO MAKE PERMANENT THE 120-DAY SPEEDY TRIAL LAW REQUIREMENT AND TO MAKE OTHER CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-701(a) is repealed and the first paragraph of G.S. 15A-701(a1) is rewritten to read as follows:

"(a1) The trial of a defendant charged with a criminal offense shall begin within the time limits specified below:".

Sec. 2. Section 12 of Chapter 626 of the Session Laws of 1981 is rewritten to read as follows:

"Sec. 12. This act shall become effective upon ratification."

Sec. 3. G.S. 15A-701(b)(8) is amended by substituting a period for the semicolon at the end of the subdivision and adding the following after the period:

"A county is conclusively presumed to be a county where, due to the limited number of court sessions scheduled for the county, the applicable time limit specified by this section cannot reasonably be met, if the county has scheduled each year fewer than eight regularly scheduled criminal or mixed weekly sessions of superior court. In any other county, a determination shall be made in each case whether the applicable time limit specified by this section cannot reasonably be met due to the limited number of court sessions scheduled for that county;".

Sec. 4. G.S. 15A-702 is amended by adding a new subsection (a1) to read as follows:

"(a1) A county is conclusively presumed to be a county where, due to the limited number of court sessions scheduled for the county, the applicable time limit specified by G.S. 15A-701 has not been met, if the county has scheduled each year fewer than eight regularly scheduled criminal or mixed weekly sessions of superior court. In any other county, a determination shall be made in each case whether the applicable time limit specified by G.S. 15A-701 has not been met due to the limited number of court sessions scheduled for that county."

Sec. 5. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 21st day of June, 1983.

H. B. 513 CHAPTER 572

AN ACT TO CLARIFY THE FILING OF A NOTICE OF APPEAL IN ALL APPEALS TAKEN FROM DECISIONS OR ORDERS OF THE UTILITIES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-90(a) is rewritten to read as follows:

"Any party to a proceeding before the Commission may appeal from any final order or decision of the Commission within 30 days after the entry of such final order or decision, or within such time thereafter as may be fixed by the Commission, not to exceed 30 additional days, and by order made within 30 days, if the party aggrieved by such decision or order shall file with the Commission notice of appeal and exceptions which shall set forth specifically the ground or grounds on which the aggrieved party considers said decisions or order to be unlawful, unjust, unreasonable or unwarranted, and including errors alleged to have been committed by the Commission.

All other parties may give notice of cross appeal and set out exceptions which shall set forth specifically the grounds on which the said party considers said decision or order to be unlawful, unjust, unreasonable or unwarranted, and including errors alleged to have been committed by the Commission. Such notice of cross appeal and exceptions shall be filed with the Commission within 20 days after the first notice of appeal and exceptions has been filed, or within such time thereafter as may be fixed by the Commission, not to exceed 20 additional days by order made within 20 days of the first filed notice of appeal and exceptions."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 21st day of June, 1983.

H. B. 592 **CHAPTER 573**

AN ACT TO ALLOW THE NEW HANOVER COUNTY BOARD OF EDUCATION TO PAY ITS TEN-MONTH EMPLOYEES ON OR BEFORE THE EIGHTEENTH DAY OF EACH MONTH.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Chapter 115C of the General Statutes, the New Hanover County Board of Education may pay employees who are employed on a 10-month basis on or before the eighteenth day of each month during which they are employed.

Sec. 2. This act shall not be construed to authorize prepayment of any employees by the New Hanover County Board of Education.

Sec. 3. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 21st day of June, 1983.

H. B. 942 **CHAPTER 574**

AN ACT RELATING TO MUNICIPALITIES AND PROCEDURES FOR THE OPERATION AND FINANCING OF JOINT MUNICIPAL POWER AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159B-4 is amended as follows:

(1) The first paragraph is rewritten to read:

"In addition and supplemental to the powers otherwise conferred on municipalities by the laws of the State, and in order to accomplish the purposes of this Chapter and to obtain a supply of electric power and energy for the present and future needs of its inhabitants and customers, a municipality may jointly or severally plan, finance, develop, construct, reconstruct, acquire, improve, enlarge, better, own, operate and maintain a project situated within or without the State with one or more other municipalities in this State owning electric distribution facilities or any political subdivisions, agencies or instrumentalities of any state contiguous to this State or joint agencies created pursuant to this Chapter or any persons, firms, associations or corporations, public or private, engaged in the generation, transmission or distribution of electric power and energy for resale within the State or any state contiguous to the State, and may make such plans and enter into such contracts in connection therewith, not inconsistent with the provisions of this Chapter, as are necessary or appropriate."

(2) The first sentence of the second paragraph is rewritten to read:

"Prior to acquiring any such project the governing board shall determine the needs of the municipality for power and energy based upon engineering studies and reports, and shall not acquire a project in excess of that amount of capacity and the energy associated therewith required to provide for its projected needs for power and energy from and after the date the project is estimated to be placed in normal continuous operation and for such reasonable period of time thereafter as shall be determined by the governing board and approved by the North Carolina Utilities Commission in a proceeding instituted pursuant to G.S. 159B-24."

Sec. 2. G.S. 159B-5 is amended as follows:

(1) The first paragraph is rewritten to read:

"Each municipality shall own a project in proportion to the amount of the money furnished or the value of property or other consideration supplied by it for the planning, development, acquisition or construction thereof, and shall be entitled to a percentage share of the output and capacity therefrom equal to such ownership proportion in such project."

(2) The second paragraph is rewritten to read:

"Each municipality shall be severally liable for its own acts and not jointly or severally liable for the acts, omissions or obligations of others, and no money or property or other consideration supplied by any municipality shall be credited or otherwise applied to the account of any other municipality, nor shall the share of any municipality in a project be charged directly or indirectly with any debt or obligation of any other municipality or be subject to any lien as a result thereof. The acquisition of a project shall include, but shall not be limited to, the purchase or lease of an existing, completed project and the purchase of a project under construction. A municipality participating in the joint or several planning, financing, construction, reconstruction, acquisition, improvement, enlargement, betterment, ownership, operation or maintenance of any project under this Chapter may furnish money derived solely from the proceeds of bonds or from the ownership and operation of its electric system, or both, and provide property, both real and personal, services and other considerations."

(3) The first sentence of the third paragraph is rewritten to read:

"Any contracts entered into by municipalities with respect to ownership in a project shall contain such terms, conditions and provisions, not inconsistent with the provisions hereof, as the governing boards of the municipalities shall deem to be in the interests of the municipalities."

Sec. 2.1. G.S. 159B-5(6) is rewritten to read:

"(6) Provisions relating to alienation and prohibiting partition of a municipality's interest in a project, which provisions shall not be subject to any provision of law restricting covenants against alienation or partition;".

Sec. 2.2. G.S. 159B-5(7) is rewritten to read:

"(7) Provisions for the construction of a project, which may include the determination that one participating municipality or any person, firm or corporation may construct the project as agent for all the parties;".

Sec. 2.3. G.S. 159B-5(8) is rewritten to read:

"(8) Provisions for the operation and maintenance of a project, which may include the determination that one participating municipality or any person, firm or corporation may operate and maintain the project as agent for all the parties;".

Sec. 2.4. G.S. 159B-5(9) is rewritten to read:

"(9) Provisions for the creation of a committee of representatives of the participating municipalities with such powers of supervision of the construction and operation of the project as the contract, not inconsistent with the provisions of this Chapter, may provide;".

Sec. 2.5. The first sentence of the last paragraph of G.S. 159B-5 is rewritten to read:

"For the purpose of paying its respective share of the cost of a project or projects, a municipality may issue its bonds as provided in this Chapter, and, notwithstanding the provisions of any other law to the contrary, may secure the payment of the principal of, premimum, if any, and interest on such bonds by a

lien and charge on all, or any portion of, the revenue derived or to be derived from the ownership and operation of its system or facilities for the generation, transmission, or distribution of electric power or energy or its interests in any project or projects, or a combination of such revenues."

Sec. 2.6. G.S. 159B-5 is amended by adding the following paragraphs at the end:

"In connection with any project undertaken pursuant to this Chapter, a municipality shall have all of the rights and powers granted to a joint agency by subdivisions (12) and (13) of G.S. 159B-11.

Notwithstanding the provisions of any other law to the contrary, any contracts with respect to the sale or purchase of capacity, output, power or energy from a project may extend for a period not exceeding 50 years from the date a project is estimated to be placed in normal continuous operation; and the execution and effectiveness thereof shall not be subject to any authorizations or approvals by the State or any agency, commission or instrumentality or political subdivision thereof except as in this Chapter specifically required and provided."

Sec. 3. G.S. 159B-9(c) is amended by adding the following provision to the end thereof:

"The offices of commissioner, alternate commissioner, or officer of a joint agency are hereby declared to be offices which may be held by the holders of any office, place of trust or profit in addition to and concurrently with those offices permitted by G.S. 128-1.1 and other offices permitted by other General Statute."

Sec. 4. G.S. 159B-11(3) is rewritten to read:

"(3) To acquire and maintain an administrative building or office at such place or places as it may determine, which building or office may be used or owned alone or together with any other joint agency or agencies, joint municipal assistance agency, municipalities, corporations, associations or persons under such terms and provisions for sharing costs and otherwise as may be determined;".

Sec. 4.1. G.S. 159B-11(19a) is rewritten to read:

"(19a) To purchase power and energy, and services and facilities relating to the utilization of power and energy, from any source on behalf of its members and other customers and to furnish, sell, lease, exchange, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to the same, to its members and other customers in such amounts, with such characteristics, for such periods of time and under such terms and conditions as the board of commissioners of the joint agency shall determine;".

Sec. 5. G.S. 159B-12 is amended as follows:

(1) The second paragraph of G.S. 159B-12 is rewritten to read:

"Notwithstanding the provisions of any other law to the contrary, any such contract with respect to the sale or purchase of capacity, output, power or energy from a project may extend for a period not exceeding 50 years from the date a project is estimated to be placed in normal continuous operation. Notwithstanding the provisions of any law to the contrary, the execution and effectiveness of any such contracts with respect to the sale or purchase of capacity, output, power or energy from a project, or of any contracts with respect to the purchase or disposition of power and energy and services and facilities related to the utilization of power and energy, shall not be subject to

any authorizations or approvals by the State or any agency, commission or instrumentality or political subdivision thereof except as in this Chapter specifically required and provided."

(2) The first sentence of the third paragraph of G.S. 159B-12 is rewritten to read:

"Payments by a municipality under any contract for the purchase of capacity, output, or power or energy or services and facilities related to the utilization of power and energy, from a joint agency shall be made solely from the revenues derived from the ownership and operation of the electric system of said municipality and any obligation under such contract shall not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the municipality or upon any of its income, receipts, or revenues, except the revenues of its electric system, and neither the faith and credit nor the taxing power of the municipality are, or may be, pledged for the payment of any obligation under any such contract."

Sec. 6. The first sentence of G.S. 159B-14 is rewritten to read:

"A joint agency may issue its bonds pledging to the payment thereof as to both principal and interest the revenues, or any portion thereof, derived or to be derived from all or any of its projects, and any additions and betterments thereto or extensions thereof, or from the sale of power and energy and services and facilities related to the utilization of power and energy, or contributions or advances from its members."

Sec. 7. The seventh sentence of G.S. 159B-15(a) is rewritten to read:

"The governing board of the issuer may also provide for the authentication of the bonds by a trustee or fiscal agent appointed by the issuer, or by an authenticating agent of any such trustee or fiscal agent."

Sec. 7.1. G.S. 159B-15 is amended by adding a new subsection to read:

"(a1) Notwithstanding anything in this Chapter to the contrary, in the case of short-term notes or other obligations (including commercial paper) maturing not later than one year from their date or dates, the Local Government Commission of North Carolina and the issuer (i) may authorize officers or employees of either or both thereof to fix principal amounts, maturity dates, interest rates or methods of fixing interest rates, interest payment dates, denominations, redemption rights of the issuer or holder, places of payment of principal and interest, and purchase prices of any such notes or other obligations, to sell and deliver any such notes in whole or in part at one time or from time to time, and to fix other matters and procedures necessary to complete the transactions authorized, all subject to such limitations as may be prescribed by the Local Government Commission with the approval of the issuer, (ii) may approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase notes or other obligations and any other transactions to provide security to assure, timely payment of notes or other obligations, (iii) may employ one or more persons or firms to assist in the sale of the notes or other obligations and appoint one or more banks, trust companies or any dealer in notes or other obligations, within or without the State, as depositary for safekeeping and as agent for the delivery and payment of the notes or other obligations, and (iv) may provide for the payment of fees and expenses in connection with the foregoing either from the proceeds of the notes or other obligations or from other available funds."

Sec. 8. G.S. 159B-16(1) is rewritten to read:

"(1) The pledge of all or any part of the revenues derived or to be derived from the project or projects to be financed by the bonds, or from the sale or other disposition of power and energy and services and facilities related to the utilization of power and energy, financed by the bonds, or from the electric system or facilities of a municipality or a joint agency."

Sec. 9. The first sentence of G.S. 159B-17(b) is rewritten to to read:

"A joint agency is hereby authorized to fix, charge, and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of its projects or otherwise as authorized by this Chapter."

Sec. 10. G.S. 159B-27(a) is amended by adding the following sentence at the end:

"Any administrative building and associated land shall be deemed a project for purposes of this paragraph."

Sec. 11. If any portion of this act is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remainder of the act.

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1983.

H. B. 892 CHAPTER 575

AN ACT TO AMEND G.S. 143B-450.1 TO PROVIDE FOR PROVISIONAL DATA-GATHERING AUTHORITY IN THE ENERGY DIVISION OF THE DEPARTMENT OF COMMERCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-450.1 is hereby rewritten to read as follows:

"(a) The Energy Division shall have the authority to obtain from prime suppliers of petroleum products specific petroleum supply data concerning State-level sales and projected sales by month for North Carolina that is currently reported on the federal form EIA-782C, 'Monthly Report of Petroleum Products Sold in States for Consumption' or its successor, at such time that these data requirements are not being met through any federal reporting procedure. The petroleum products subject to this reporting requirement are: finished gasoline (all grades), #1 distillate, kerosene, #2 fuel oil, #2 diesel fuel, aviation gasoline (finished), kerosene-type jet fuel, naphtha-type jet fuel, #4 fuel, residual fuel oil (less than or equal to one percent sulfur), residual fuel oil (greater than one percent sulfur), propane (consumer grade). The authority to collect energy data from suppliers of petroleum products into North Carolina, that is granted to the North Carolina Energy Division in this section, shall be limited to the petroleum volume data that is reported on the Form EIA-782C or its successor.

(b) 'Prime suppliers' shall be defined as those suppliers which make the first sale of the named product into North Carolina, excluding jobbers, distributors and retail dealers.

(c) The Energy Division shall adopt rules and regulations for the administration of this data collection program and the Attorney General and the law enforcement authorities of the State and its political subdivisions shall

enforce the provisions of this section and all orders, rules and regulations promulgated thereunder. Any such enforcement action may be brought upon the relation of the Energy Division, Department of Commerce, or in his discretion, upon the direction of the Attorney General.

(d) Any person or corporation who willfully refuses to provide the petroleum supply data in accordance with the conditions described herein, or who knowingly or willfully submits false information in any reports required herein or refuses to file any such reports shall be guilty of a misdemeanor punishable as provided in G.S. 14-3.

(e) Any civil action brought to enforce the provisions of this section shall be brought in the Superior Court of Wake County or in the superior court of the county in which the acts or practices constituting a violation occurred or are occurring.

(f) The Energy Division shall keep confidential any individually identifiable energy information to the extent necessary to comply with the confidentiality requirements of the reporting agency, and any such information shall not be subject to the public disclosure requirements of G.S. 132-6. 'Individually identifiable energy information' shall be defined as any individual record or portion of a record or aggregated data containing energy information about a person or persons obtained from any source, the disclosure of which could reasonably be expected to reveal information about a specific person."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 21st day of June, 1983.

H. B. 1026 CHAPTER 576

AN ACT RELATING TO THE FORMATION OF NEW POLITICAL PARTIES TO CONFORM WITH FEDERAL COURT RULINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-96(a)(2) is amended by rewriting the first sentence to read:

"Any group of voters which shall have filed with the State Board of Elections petitions for the formulation of a new political party which are signed by registered and qualified voters in this State equal in number to two percent (2%) of the total number of voters who voted in the most recent general election for Governor."

Sec. 2. G.S. 163-96(b) is amended by deleting the first paragraph and substituting in lieu thereof the following:

"Petitions for New Political Party. Petitions for the creation of a new political party shall contain on the heading of each page of the petition in bold print or all in capital letters the words: 'THE UNDERSIGNED REGISTERED VOTERS IN_____ COUNTY HEREBY PETITION FOR THE FORMATION OF A NEW POLITICAL PARTY TO BE NAMED _____ AND WHOSE STATE CHAIRMAN IS _____, RESIDING AT _____ AND WHO

CAN BE REACHED BY TELEPHONE AT _____. THE SIGNERS OF THIS PETITION INTEND TO ORGANIZE A NEW POLITICAL PARTY TO PARTICIPATE IN THE NEXT SUCCEEDING GENERAL ELECTION.'

All printing required to appear on the heading of the petition shall be in type no smaller than 10 point or in all capital letters, double spaced typewriter size. In addition to the form of the petition, the organizers and petition circulators shall inform the signers of the general purpose and intent of the new party."

Sec. 3. G.S. 163-96(c) is repealed.

Sec. 4. G.S. 163-74(b) is amended by deleting the last sentence which reads: "Party affiliation may also be changed as provided in G.S. 163-96(c)."

Sec. 5. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 21st day of June, 1983.

H. B. 193 CHAPTER 577

AN ACT TO MAKE AMENDMENTS CONCERNING THE ADVISORY BUDGET COMMISSION TO BOND ACTS TO IMPLEMENT THE RECOMMENDATIONS OF THE COMMITTEE ON SEPARATION OF POWERS.

The General Assembly of North Carolina enacts:

Section 1. This act may be cited as the Separation of Powers Bond Act of 1983.

Sec. 2. G.S. 113-315.31 is amended by adding immediately after the words "with the approval of" the words "the Governor after receiving the advice of".

Sec. 3. University Revenue Bonds. G.S. 116-41.4 is amended by deleting the words "Advisory Budget Commission" all four places they appear and inserting in lieu thereof in all places the words "Director of the Budget after the Director of the Budget consults with the Advisory Budget Commission."

Sec. 4. University Revenue Refunding Bonds. G.S. 116-41.9 is amended by deleting the words "Advisory Budget Commission" and inserting in lieu thereof the words "Director of the Budget after consultation with the Advisory Budget Commission."

Sec. 5. Revenue Bonds for Student Housing. Article 19 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-175.1. *Consultation with Advisory Budget Commission.*—Whenever this Article requires the approval of the Director of the Budget of an action, the Director of the Budget shall consult with the Advisory Budget Commission before giving approval."

Sec. 6. G.S. 116-175(4), 116-176, 116-178, 116-179, 116-182 and 116-183 are each amended by deleting the words "Advisory Budget Commission" whenever they appear and inserting in lieu thereof the words "Director of the Budget".

Sec. 7. University Revenue Bonds. Article 21 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-187.1. *Consultation with Advisory Budget Commission.*—Whenever this Article requires the approval of the Director of the Budget of an action, the

Director of the Budget shall consult with the Advisory Budget Commission before giving approval."

Sec. 8. G.S. 116-189(5), 116-191, 116-192, 116-194 and 116-195 are each amended by deleting the words "Advisory Budget Commission" whenever they appear and inserting in lieu thereof the words "Director of the Budget".

Sec. 9. Clean Water Bond Acts. Section 7(a)(2) of Chapter 909, Session Laws of 1971, is amended by deleting the first comma and the remainder of Section 7(a)(2) following the comma and replacing it with a period.

Sec. 10. Section 7(a)(2) of Chapter 677, Session Laws of 1977 is amended by deleting the second comma and the remainder of Section 7(a)(2) following the second comma and replacing it with a period.

Sec. 11. Section 7(a)(2)a. of Chapter 993, Session Laws of 1981 is amended by deleting the second comma and the remainder of Section 7(a)(2)a. following the second comma and replacing it with a period.

Sec. 12. Section 14(b) of Chapter 909, Session Laws of 1971 is amended by deleting the word "No" and substituting the word "Any" and by deleting "become effective until approved by the Advisory Budget Commission and until printed or otherwise duplicated and a certified copy filed with the Secretary of State or other official of the State designated by law." and substituting "be filed in accordance with Chapter 150A of the General Statutes. The above department and boards shall report annually to the General Assembly on any rules adopted, amended or repealed under this section."

Sec. 13. Section 16(b) of Chapter 677, Session Laws of 1977 is rewritten to read:

"The Department of Administration, the Commission for Health Services and the Environmental Management Commission shall report annually to the General Assembly on any rules adopted, amended or repealed under this section."

Sec. 14. Section 16(b) of Chapter 993, Session Laws of 1981 is rewritten to read:

"The Department of Administration, the Commission for Health Services and the Environmental Management Commission shall report annually to the General Assembly on any rules adopted, amended or repealed under this section."

Sec. 15. Section 7(b) of Chapter 909, Session Laws of 1971 is amended:

(1) by deleting "Advisory Budget Commission" the first, second, third, fifth, sixth, seventh and eighth time it appears and inserting in lieu thereof "Director of the Budget after consultation with the Advisory Budget Commission"; and

(2) by deleting "Advisory Budget Commission" the fourth time it appears and inserting in lieu thereof "Director of the Budget and the Advisory Budget Commission".

Sec. 16. Section 7(b) of Chapter 677, Session Laws of 1977 is amended:

(1) by deleting "Advisory Budget Commission" the first, second, third, fifth, sixth, seventh and eighth time it appears and inserting in lieu thereof "Director of the Budget after consultation with the Advisory Budget Commission"; and

(2) by deleting "Advisory Budget Commission" the fourth time it appears and inserting in lieu thereof "Director of the Budget and the Advisory Budget Commission".

Sec. 17. Section 7(b) of Chapter 993, Session Laws of 1981 is amended by deleting "Advisory Budget Commission" wherever it appears and by inserting in lieu thereof "General Assembly".

Sec. 18. Section 7(e) of Chapter 677, Session Laws of 1977 is amended by deleting the words "Advisory Budget Commission" and inserting in lieu thereof the words "Director of the Budget after consultation with the Advisory Budget Commission".

Sec. 19. Validation. All actions, appropriations, regulations or bonds taken, made or issued under the provisions of Chapter 909, Session Laws of 1971, Chapter 677, Session Laws of 1977, Part 4 of Article 1 of Chapter 116 of the General Statutes, Articles 19 or 21 of Chapter 116 of the General Statutes, Article 23C of Chapter 113 of the General Statutes or Part 10 of Article 10 of Chapter 143B of the General Statutes are valid notwithstanding the fact that certain powers were granted to and exercised by the Advisory Budget Commission.

Sec. 20. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 22nd day of June, 1983.

H. B. 551 CHAPTER 578

AN ACT AMENDING THE COUNTY HOSPITAL ACT TO AUTHORIZE A COUNTY HOSPITAL TO ESTABLISH AND OPERATE BRANCH FACILITIES IN OTHER COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Article 2A of Chapter 131 of the General Statutes, is amended by adding a new section to read:

"§ 131-28.22A. *Branch facilities.*—Notwithstanding anything in this Article, any county owning and operating a hospital organized under the provisions of this Article may erect, remodel, enlarge, purchase, finance, and operate branches and related facilities within this State but outside the boundaries of the county subject to the following limitations:

(1) No moneys derived from the exercise by the owning county of its power of taxation shall be expended on facilities located outside its boundaries;

(2) No moneys derived from the issuance by the owning county of its bonds or notes shall be expended on facilities located outside its boundaries;

(3) The owning county shall not possess the power of eminent domain or have the right of condemnation with respect to hospital facilities located outside its boundaries.

(4) The power conferred on counties by G.S. 153A-169 and G.S. 153A-170 to adopt ordinances regulating the use of county-owned property and parking on county-owned property shall not extend to hospital facilities located outside its boundaries unless the board of commissioners of the county in which the facility is located shall by resolution permit any such ordinance to be applicable within its jurisdiction;

(5) The owning county shall not be deemed liable, by virtue of operating hospital facilities outside its boundaries, for the cost of medical care of paupers who are legal residents of some other county; and

(6) The authority granted by this section may not be exercised in any county that has within its borders four or more incorporated municipalities which qualify to receive funds under G.S. 136-41.2."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1983.

H. B. 648 CHAPTER 579

AN ACT TO ALLOW THE TRANSYLVANIA COUNTY BOARD OF EDUCATION TO TRANSFER CERTAIN PROPERTY TO NONPROFIT CIVIC IMPROVEMENT ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 115C-518, the Transylvania County Board of Education may convey in fee simple at private sale, with or without monetary consideration, to the Dunn's Rock Community Center, a nonprofit, unincorporated, organization for the civic improvement and development of the Dunn's Rock Community, all of the Dunn's Rock School Building and the grounds surrounding the same.

Sec. 2. Notwithstanding G.S. 115C-518, the Transylvania County Board of Education may convey in fee simple at private sale, with or without monetary consideration, to the Quebec Community Development Club, a nonprofit, unincorporated, organization for the civic improvement and development of the Quebec Community, all of the Quebec School site.

Sec. 3. Notwithstanding G.S. 115C-518, the Transylvania County Board of Education may convey in fee simple at private sale, with or without monetary consideration to the Cathey's Creek Community Club, a nonprofit, unincorporated, organization for the civic improvement and development of the Cathey's Creek Community, all of the Cathey's Creek School Building and the grounds surrounding the same.

Sec. 4. Notwithstanding G.S. 115C-518, the Transylvania County Board of Education may convey in fee simple, at private sale, with or without monetary consideration to the Balsam Grove Community Club, a nonprofit, unincorporated, organization for the civic improvement and development of the Balsam Grove Community, all of the Balsam Grove School Building and the grounds surrounding the same.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1983.

H. B. 731 CHAPTER 580

AN ACT TO AUTHORIZE THE TYRRELL COUNTY BOARD OF EDUCATION TO ENTER INTO CERTAIN CONTRACTS WITHOUT COMPLYING WITH THE PROVISIONS OF CHAPTER 133 AND OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. The Tyrrell County Board of Education shall have authority to enter into purchase and/or construction contracts for prefabricated and/or pre-engineered school buildings without complying with provisions of Chapter 133 of the General Statutes and without complying with those provisions of Article 8 of Chapter 143 of the General Statutes requiring separate specifications and bidding for the classes of work enumerated in G.S. 143-128.

Sec. 2. This act is effective upon ratification, but shall expire June 30, 1985.

In the General Assembly read three times and ratified, this the 22nd day of June, 1983.

H. B. 759 CHAPTER 581

AN ACT TO SPECIFY A SUMMONS FOR TERMINATION OF PARENTAL RIGHTS CASES, TO PROVIDE FOR AN ANSWER IN SUCH CASES, AND TO SPECIFY WHO IS TO RECEIVE COPIES OF TERMINATION OF PARENTAL RIGHTS ORDERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-289.27 is amended by deleting the second and third sentences from the second paragraph and inserting in their place the following:

"The summons shall notify the respondents to file a written answer within 30 days after service of the summons and petition."

Sec. 2. G.S. 7A-289.27 is further amended by designating the existing section as subsection (a) and by adding a new subsection (b) to read:

"(b) The summons shall be issued for the purpose of terminating parental rights pursuant to the provisions of subsection (a) of this section and shall include:

(1) The name of the minor child;

(2) Notice that a written answer to the petition must be filed with the clerk who signed the petition within 30 days after service of the summons and a copy of the petition, or the parent's rights may be terminated;

(3) Notice that if they are indigent, the parents are entitled to appointed counsel. The parents may contact the clerk immediately to request counsel;

(4) Notice that this is a new case. Any attorney appointed previously will not represent the parents in this proceeding unless ordered by the court;

(5) Notice that the date, time and place of the hearing will be mailed by the clerk upon filing of the answer or 30 days from the date of service if no answer is filed;

(6) Notice of the purpose of the hearing and notice that the parents may attend the termination hearing."

Sec. 3. G.S. 7A-289.31 is amended by designating the present subsection (d) as subsection (e) and inserting between existing subsection (c1) and newly designated subsection (e) a new subsection to read:

"(d) Counsel for the petitioner shall serve a copy of the termination of parental rights order upon the guardian *ad litem* for the child, if any, and upon the child if he is 12 years of age or older."

Sec. 4. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 22nd day of June, 1983.

H. B. 1042 CHAPTER 582

AN ACT TO VALIDATE CERTAIN FORECLOSURE AND LEGAL ADVERTISEMENT SALES.

The General Assembly of North Carolina enacts:

Section 1. Two new sections are added to Article 2C of Chapter 45 of the General Statutes to read:

"§ 45-21.46. *Validation of foreclosure sales where posting and publication not complied with.*—In all cases of foreclosure of mortgages or deeds of trust secured by real estate pursuant to power of sale which foreclosures were commenced on or subsequent to June 6, 1975, and consummated prior to May 1, 1983, in which foreclosure sales the requirements for posting and publication of notice of sale set forth in G.S. 45-21.17 were complied with but the requirements of the mortgage or deed of trust as to posting and publication of notice of sale were not complied with, are validated, ratified and confirmed and shall be effective to pass title to real estate to the same extent as though all requirements of the mortgage or deed of trust respecting posting and publication of notice of sale were complied with; unless an action to set aside such foreclosure is commenced before January 1, 1984.

"§ 45-21.47. *Validation of foreclosure sales when trustee is officer of owner of debt.*—All sales of real property made prior to June 1, 1983, under a power of sale contained in a mortgage or deed of trust for which the trustee was an officer, director, attorney, agent, or employee of the owner of all or part of the debt secured by the mortgage or deed of trust are validated and have the same effect as if the trustee had not been an officer, director, attorney, agent, or employee of the owner of the debt unless an action to set aside the foreclosure is commenced within one year after June 1, 1983."

Sec. 2. Article 50 of Chapter 1 of the General Statutes is amended by adding a new section to read:

"§ 1-601. *Certain legal advertisements validated.*—Legal advertisements published prior to June 1, 1983, by a newspaper that met every requirement for publication of legal notices and advertisements under G.S. 1-597 when the advertisement was published except that the newspaper had a second class United States mail permit in a county adjacent to the county in which the advertisement was published instead of the county in which it was published may not be held to be invalid because of the lack of a second class United States mail permit in the proper county."

Sec. 3. This act is effective upon ratification. Nothing herein shall affect any pending litigation.

In the General Assembly read three times and ratified, this the 22nd day of June, 1983.

H. B. 1089 CHAPTER 583

AN ACT TO ALLOW COMMUNITY THEATRES TO QUALIFY FOR CERTAIN ABC PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-1000 is amended by:

(A) adding a new subdivision (1) to read:

"(1) Community theatre. An establishment owned and operated by a bona fide nonprofit organization that is engaged solely in the business of sponsoring or presenting an amateur or professional theatrical events to the public. A permit issued for a community theatre is valid only during regularly scheduled theatrical events sponsored by such nonprofit organization."; and

(B) renumbering the succeeding subdivisions accordingly.

Sec. 2. G.S. 18B-1001(1) is amended by changing the period after the words "Convention centers" to a semicolon and adding a new sub-subdivision to read: "h. Community theatres."

Sec. 3. G.S. 18B-1001(3) is amended by changing the period after the words "Cooking schools" to a semicolon and adding a new sub-subdivision to read: "g. Community theatres."

Sec. 4. G.S. 18B-1001(5) is amended by changing the period after the words "Private clubs" to a semicolon and adding a new sub-subdivision to read: "d. Community theatres."

Sec. 5. G.S. 18B-1001(10) is amended by changing the period after the words "Convention centers" to a semicolon and adding a new sub-subdivision to read: "e. Community theatres."

Sec. 6. G.S. 18B-602(h) is amended by inserting between the phrase "private clubs," and the word "and" the phrase "community theatres,".

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1983.

H. B. 1104 CHAPTER 584

AN ACT TO REQUIRE EXTRATERRITORIAL REPRESENTATION ON THE PLANNING AGENCY WHEN MATTERS CONCERNING THE EXTRATERRITORIAL AREA ARE ACTED UPON.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-362 is amended by deleting the second and third sentences of that section.

Sec. 2. The fourth sentence of G.S. 160A-362 is amended by deleting: "In lieu of an advisory board, representation may" and substituting: "Representation shall".

Sec. 3. The fifth sentence of G.S. 160A-362 is amended by deleting: "members of the advisory board or".

Sec. 4. A new sentence is added to G.S. 160A-362 to follow the fourth sentence thereof and to read as follows: "Any advisory board established prior to July 1, 1983, to provide the required extraterritorial representation shall

constitute compliance with this section until the board is abolished by ordinance of the city."

Sec. 5. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 22nd day of June, 1983.

H. B. 716 CHAPTER 585

AN ACT TO ASSURE UNEMPLOYMENT INSURANCE TRUST FUND SOLVENCY AND COMPLIANCE WITH FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-9(a)(5) is amended by adding a new paragraph at the end to read:

"On the computation date (August 1) in 1983 and each computation date thereafter, the Commission shall compute the average yearly insured wage by multiplying the average weekly insured wage (obtained in accordance with G.S. 96-8(22)) by 52. During the calendar year following the computation date, the taxable wage base shall be the greater of the federally required tax base or the product resulting from multiplying the average yearly insured wage by sixty percent (60%), rounded to the nearest multiple of one hundred dollars ($100.00)."

Sec. 2. The second sentence of G.S. 96-9(d)(2)a. is amended by adding immediately after the words "wage base" the words:

"provided that after December 31, 1983, the wage base shall be the same as that provided for in G.S. 96-9(a)(5)".

Sec. 3. G.S. 96-9(b)(3) is amended by adding a new subdivision to read:

"i. Notwithstanding any other provision of this Chapter, on the computation date in 1983 (August 1) and each computation date thereafter, if the fund ratio as computed in G.S. 96-9(b)(3)d. is less than five and five-tenths percent (5.5%), the standard tax rate and the tax rate assigned to any employer by either the experience rating formula table in G.S. 96-9(b)(3)d. or the rate schedule for overdrawn accounts in G.S. 96-9(b)(3)e. shall be increased for the next tax year by ten percent (10%) thereof (e.g., multiplied by one and one-tenth (1.1), etc.) for each percentage point or part thereof by which five and five-tenths percent (5.5%) exceeds the fund ratio; provided that no rate shall be increased by the provisions of this subsection by more than twenty percent (20%) for 1984; by more than thirty percent (30%) for 1985 or by more than forty percent (40%) for the years after 1985."

Sec. 4. G.S. 96-9(c)(1) is amended by rewriting the first sentence to read:

"Except as provided in subsection (d) of this section, the Commission shall maintain a separate account for each employer and shall credit his account with all voluntary contributions made by him and all other contributions which he has paid or is paid on his behalf, provided the Commission shall credit the account of each employer in an amount equal to eighty percent (80%) of all voluntary contributions paid with respect to periods prior to January 1, 1984, and of all other contributions paid with respect to periods between July 1, 1965, and December 31, 1983.";

and is further amended by deleting the second sentence in its entirety.

Sec. 5. The first sentence of G.S. 96-9(c)(2)a. is amended by deleting "charged against" and substituting "allocated to" and further by adding a new sentence after the first sentence to read:

"The amount so allocated shall be multiplied by one hundred twenty percent (120%) and charged to that employer's account."

Sec. 6. G.S. 96-9(c)(2)b. is rewritten to read:

"b. Any benefits paid to any claimant under a claim filed for a period occurring after the date of such separations as are set forth in this paragraph and based on wages paid prior to the date of (i) the voluntary leaving of work by the claimant without good cause attributable to the employer; (ii) the discharge of claimant for misconduct in connection with his work; (iii) the discharge of the claimant for substantial fault as that term may be defined in G.S. 96-14; or, (iv) the discharge of the claimant solely for a bona fide inability to do the work for which he was hired but only where the claimant was hired pursuant to a job order placed with a local office of the Commission for referrals to probationary employment (with a probationary period no longer than 60 days), which job order was placed in such circumstances and which satisfies such conditions as the Commission may by regulation prescribe and only to the extent of the wages paid during such probationary employment shall not be charged to the account of the employer by whom the claimant was employed at the time of such separation; provided, however, said employer promptly furnishes the Commission with such notices regarding any separation of the individual from work as are or may be required by the regulations of the Commission.

No benefit charges shall be made to the account of any employer who has furnished work to an individual who, because of the loss of employment with one or more other employers, becomes eligible for partial benefits while still being furnished work by such employer on substantially the same basis and substantially the same amount as had been made available to such individual during his base period whether the employments were simultaneous or successive; provided, that such employer makes a written request for noncharging of benefits in accordance with Commission regulations and procedures.

No benefit charges shall be made to the account of any employer where benefits are paid as a result of a decision by an Adjudicator, Appeals Referee or the Commission if such decision to pay benefits is ultimately reversed; nor shall any such benefits paid be deemed to constitute an overpayment under G.S. 96-18(g)(2), the provisions thereof notwithstanding."

Sec. 7. G.S. 96-9(d)(2)b. is amended by deleting "charged, credited," and substituting "credited".

Sec. 8. G.S. 96-9(d)(2)c. is rewritten to read:

"Benefits paid shall be allocated to the employer's account in accordance with G.S. 96-9(c)(2)a. but charged to such account without the application of any multiplier, and no benefits shall be noncharged except amounts equal to fifty percent (50%) of extended benefits paid and amounts equal to one hundred percent (100%) of benefits paid through error."

Sec. 9. G.S. 96-9(f)(2) is rewritten to read as follows:

"In lieu of paying for benefits by reimbursement as provided in subdivision (1) hereof, any State or local governmental employing unit may elect pursuant to rules and regulations established by the Commission:

(a) to pay contributions on an experience rating basis as provided in G.S. 96-9(a), (b), and (c); or,

(b) to pay to the Commission, within 25 days from the date a list of benefit charges is mailed to such employing unit, a sum equal to the amount which its account would be charged if it were a tax paying employer under G.S. 96-9(c)(2)."

Sec. 10. G.S. 96-9(f)(4) is amended by adding immediately after the word "reimbursement" the words: "as provided in subdivision (1) hereof".

Sec. 11. G.S. 96-9 is amended by adding a new subsection to read:

"(g) Nothing contained in subsections (d) and (f) of this section shall be construed to prevent the Commission from providing any reimbursing employer with informational bills or lists of charges on a basis more frequent than yearly, if in its sole discretion, the Commission deems such action to be in the best interest of the Commission and the affected employer(s)."

Sec. 12. The first sentence of G.S. 96-12(b)(2) is amended by deleting "rounded to the nearest dollar" and substituting "rounded, if not a multiple of one dollar, to the next lower dollar", and further by adding a new sentence after the first sentence to read: "Provided, if on August 1, 1983, or any August 1 thereafter, the fund ratio as computed pursuant to G.S. 96-9(b)(3)d. is less than five and five-tenths percent (5.5%), the maximum weekly benefit amount shall be computed as provided for in the preceding sentence except it shall be computed at sixty percent (60%) of the average weekly insured wage; but in no event shall the maximum weekly benefit amount be reduced by the provisions of this sentence to an amount less than the maximum weekly benefit in effect during the 12 months next preceding the computation date."

Sec. 13. G.S. 96-12(b)(1)b. is amended by adding a new paragraph at the end to read:

"Each eligible individual whose benefit year begins on or after the first day of October 1983, who is totally unemployed as defined by G.S. 96-8(10), and who files a valid claim, shall be paid benefits with respect to such week or weeks at a rate equal to the amount obtained by dividing the sum of the wages paid to such individual during his two highest paid base period quarters by 52 and, if the amount so obtained is not a multiple of one dollar, rounded to the next lower whole dollar; provided that if the amount so obtained, after rounding, is less than fifteen dollars ($15.00), no benefits shall be paid."

Sec. 14. G.S. 96-12(c) is amended by adding a new sentence to the end to read:

"Each eligible individual whose benefit year begins on or after October 1, 1983, who is 'partially unemployed' or 'part totally unemployed' as defined in G.S. 96-8(10), and who files a valid claim, shall be paid benefits with respect to such week or weeks in an amount rounded to the nearest lower full dollar amount (if not a full dollar amount) which is equal to the difference between his weekly benefit amount and that part of the remuneration payable to him for such week which is in excess of ten percent (10%) of the average weekly wage in the two highest quarters of his base period."

Sec. 15. G.S. 96-12(d) is amended by deleting the first sentence in its entirety and by adding a new sentence before the last sentence to read:

"On and after October 1, 1983, the maximum benefit amount available to eligible individuals shall be determined by dividing the individual's base-period wages by his high-quarter wages and multiplying that quotient by eight, rounding the result to the nearest whole number, and then multiplying the

figure so derived by the weekly benefit amount available to that individual; provided the minimum total amount of benefits available to eligible individuals shall not be less than 13 times his weekly benefit amount, nor shall any eligible individual be entitled to more than 26 times his weekly benefit amount during any benefit year, except that such benefits may be extended further in accordance with the provisions of G.S. 96-12(e)."

Sec. 16. The second sentence of G.S. 96-12(e)D. is amended by adding immediately after the words "such weekly benefit amounts" the words: "rounded to the nearest lower full dollar amount (if not a full dollar amount)".

Sec. 17. The second sentence of G.S. 96-13(a)(3)(ii) is amended by adding immediately after the words "amount of such allowance" the words: "which weekly benefit amount shall be rounded to the nearest lower full dollar amount (if not a full dollar amount)".

Sec. 18. The second paragraph of G.S. 96-14(9) is amended by adding a new sentence at the end to read: "Provided further, that all such reduced weekly benefit amounts shall be rounded to the nearest lower full dollar amount (if not a full dollar amount)".

Sec. 19. G.S. 96-16(e) is amended by adding immediately after the words "weekly benefit amount" the words: "; provided however, that all weekly benefit amounts so determined shall be rounded to the nearest lower full dollar amount (if not a full dollar amount)".

Sec. 20. G.S. 96-8(24) is rewritten to read:

"Work, for purposes of this Chapter, means any bona fide permanent employment. For purposes of this definition, 'bona fide permanent employment' is presumed to include only those employments of greater than 30 consecutive calendar days duration (regardless of whether work is performed on all those days) provided: (a) The presumption that an employment lasting 30 days or less is not bona fide permanent employment may be rebutted by a finding by the Commission, either on its own motion or upon a clear and convincing showing by an interested party that the application of the presumption would work a substantial injustice in view of the intent of this Chapter; (b) Any decision of the Commission on the question of bona fide employment may be disturbed on judicial review only upon a finding of plain error."

Sec. 21. This act shall become effective August 1, 1983.

In the General Assembly read three times and ratified, this the 22nd day of June, 1983.

H. B. 1214 CHAPTER 586

AN ACT TO ALLOW A WRITTEN WAIVER OF APPEARANCE BY DEFENDANTS CHARGED WITH HUNTING, FISHING, OR BOATING OFFENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-146(8) is hereby amended by inserting after the words "traffic offenses" and before the word "for" the following words and punctuation: ", hunting and fishing offenses under Chapter 113, and boating offenses under Chapter 75A".

Sec. 2. G.S. 7A-148(a) is hereby amended by inserting after the words "traffic offenses" and before the word "for" the following words and

punctuation: ", hunting and fishing offenses under Chapter 113, and boating offenses under Chapter 75A".

Sec. 3. G.S. 15A-1011(a)(4) is hereby amended by inserting after the words "traffic cases" and before the word "are" the following words and punctuation: ", hunting and fishing offenses under Chapter 113, and boating offenses under Chapter 75A".

Sec. 4. G.S. 7A-180(4) is hereby amended by inserting after the phrase "traffic offenses" and before the phrase "in accordance" the following words and punctuation: ", hunting and fishing offenses under Chapter 113, and boating offenses under Chapter 75A".

Sec. 5. G.S. 7A-273(2) is hereby amended by inserting after the words and punctuation "traffic offenses," and before the phrase "to accept written appearances" the following words and punctuation: "hunting and fishing offenses under Chapter 113, and boating offenses under Chapter 75A,".

Sec. 6. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 22nd day of June, 1983.

H. B. 1228 CHAPTER 587

AN ACT TO MAKE NOTICE PROVISIONS CONSISTENT IN ACTIONS FOR SUPPORT AND CUSTODY OF MINOR CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 50-13.5(d)(1) is amended by deleting the number "five" and substituting the number "10".

Sec. 2. This act shall become effective on October 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

S. B. 109 CHAPTER 588

AN ACT TO PROVIDE FOR THE APPOINTMENT OF SPECIAL LIBRARY REGISTRATION DEPUTIES TO REGISTER VOTERS IN ALL PUBLIC LIBRARIES.

The General Assembly of North Carolina enacts:

Section 1. Article 14 of Chapter 153A of the General Statutes is amended by adding the following new section:

"§ 153A-272. *Designation of library employees to register voters.*—The governing body of each public library with four or more employees shall designate at least one employee of the library to be appointed by the county board of elections to register voters pursuant to G.S. 163-80(a)(6). With the approval of the board of elections, additional employees may also be designated for this purpose by the governing body."

Sec. 2. G.S. 163-80(a)(6) is amended by adding the following new sentence between the first and second sentences of that subdivision: "Appointment of such deputies is mandatory for libraries covered by G.S. 153A-272; appointment is optional for other libraries."

Sec. 3. G.S. 163-80(a)(6) is amended by adding the following sentence at the end of that subdivision:

"If, for good and valid reasons, the local public library director shall request that the county board of elections appoint 'replacement' special library registration deputies before the two-year term ends, the county board of elections shall do so."

Sec. 4. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

S. B. 181 CHAPTER 589

AN ACT TO MAKE JUDGES AND JUSTICES OF THE GENERAL COURT OF JUSTICE INACTIVE MEMBERS OF THE STATE BAR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 84-16 is amended by adding the following language to the third paragraph following the words "Inactive members shall be" and preceding the words "all persons found by the Council":

"judges and justices of the General Court of Justice and".

Sec. 2. This act is effective upon ratification, but judges and justices made inactive members of the State Bar by this act shall be deemed to become inactive members as of January 1, 1982.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

S. B. 392 CHAPTER 590

AN ACT TO CLARIFY THE AUTHORITY TO ISSUE CUSTODY ORDERS APPLICABLE TO JUVENILES WITHIN THE JUVENILE JURISDICTION OF THE DISTRICT COURT AND THE CRITERIA FOR CUSTODY ORDERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-573 is amended by adding the following sentence at the end:

"The authority to issue a nonsecure or secure custody order is limited to a judge or the chief court counselor or his counseling staff when a juvenile is alleged to have committed a delinquent or undisciplined act."

Sec. 2. G.S. 7A-574(a) is amended by rewriting all the language before subdivision (1) to read:

"(a) When a request is made for nonsecure custody, the judge shall first consider release of the juvenile to his parent, relative, guardian, custodian or other responsible adult. An order for nonsecure custody shall be made only when there is a reasonable factual basis to believe the matters alleged in the petition are true, and".

Sec. 3. G.S. 7A-574(a) is further amended by adding subdivisions (6) and (7) to the end to read:

"(6) The juvenile is a runaway and consents to nonsecure custody; or

(7) The juvenile meets one or more of the criteria for secure custody but the court finds it in the best interest of the juvenile that the juvenile be placed in a nonsecure placement."

Sec. 4. G.S. 7A-574(b) is amended by deleting subdivisions (1) through (9) and by substituting the following:

"(1) That the juvenile is presently charged with a felony, and has demonstrated that he is a danger to property or persons; or

(2) That the juvenile has willfully failed to appear on a pending delinquency charge or on charges of violation of probation or conditional release, providing the juvenile was properly notified; or

(3) That a delinquency charge is pending against the juvenile and there is a reasonable cause to believe the juvenile will not appear in court; or

(4) That the juvenile is an absconder from any State training school or detention facility in this or another state; or

(5) That there is reasonable cause to believe the juvenile should be detained for his own protection because the juvenile has recently suffered self-inflicted physical injury or recently attempted to do so; in such case, the juvenile must have been refused admission by one appropriate hospital and the period of secure custody is limited to 24 hours to determine the need for inpatient hospitalization; if such a juvenile is placed in secure custody, he shall receive continuous supervision while in secure custody and a physician shall be notified immediately; or

(6) That the juvenile is alleged to be undisciplined by virtue of his being a runaway and is found to be inappropriate for nonsecure custody placement or because he refuses nonsecure custody and the court finds that the juvenile needs secure custody for up to 72 hours to evaluate the juvenile's need for medical or psychiatric treatment or to facilitate reunion with his parents; or

(7) That the juvenile is alleged to be undisciplined and has willfully failed to appear in court after proper notice; such a juvenile shall be brought to court as soon as possible and in no event should be held more than 72 hours."

Sec. 5. G.S. 7A-574(c) is amended by rewriting the second sentence to read:

"The judge may also order secure custody for a juvenile who is alleged to have violated the conditions of his probation or conditional release only if the juvenile is alleged to have committed acts that damage property or injure persons."

Sec. 6. G.S. 7A-574(d) is amended by deleting the first sentence.

Sec. 7. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

S. B. 566 CHAPTER 591

AN ACT TO GRANT TO GASOHOL A FIVE CENT PARTIAL EXEMPTION FROM THE GASOLINE AND SPECIAL FUELS TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-436.1(a) as the same appears in the 1981 Cumulative Supplement to Permanent Replacement Volume 2D of the General Statutes is hereby amended by:

(1) Adding thereto a new subdivision (4) reading as follows:

"(4) From July 1, 1985, through June 30, 1992, the tax is seven cents (7¢)."

(2) Deleting in their entirety the following words and symbols appearing in lines 13, 14 and 15, "for the year ending December 31, 1984, ten and one-half

cents (10 1/2¢) per gallon; for subsequent years ending December 31, eleven cents (11¢) per gallon." and replacing same with the following words and symbols:

"for the year ending December 31, 1984, ten and one-half cents (10 1/2¢) per gallon; for the year ending December 31, 1985, eight and one-half cents (8 1/2¢) per gallon; for subsequent years ending December 31, six cents (6¢) per gallon."

Sec. 2. G.S. 105-449.16(b) as the same appears in the 1981 Cumulative Supplement to Permanent Replacement Volume 2D of the General Statutes is hereby amended by adding thereto a new subdivision (4) reading as follows:

"(4) From July 1, 1985, through June 30, 1992, the tax is seven cents (7¢)."

Sec. 3. G.S. 105-449.24 as the same appears in the 1981 Cumulative Supplement to Permanent Replacement Volume 2D of the General Statutes is hereby amended by deleting in their entirety the following words and symbols appearing in lines 11, 12 and 13, "for the year ending December 31, 1984, ten and one-half cents (10 1/2¢) per gallon; for subsequent years ending December 31, eleven cents (11¢) per gallon." and replacing same with the following words and symbols:

"for the year ending December 31, 1984, ten and one-half cents (10 1/2¢) per gallon; for the year ending December 31, 1985, eight and one-half cents (8 1/2¢) per gallon; for subsequent years ending December 31, six cents (6¢) per gallon."

Sec. 4. Section 6 of Chapter 1187 of the 1979 Session Laws (Second Session 1980) is hereby rewritten to read as follows:

"Sec. 6. This act shall become effective on January 1, 1981, and shall cease to be effective on July 1, 1992."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

H. B. 122 CHAPTER 592

AN ACT TO AMEND G.S. 20-108 TO PROVIDE FOR SEIZURE AND DISPOSITION OF MOTOR VEHICLES OR COMPONENT PARTS WHICH DO NOT CARRY IDENTIFYING NUMBERS OR CARRY ALTERED, CHANGED OR OBLITERATED NUMBERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-108 is hereby rewritten to read as follows:

"§ 20-108. *Vehicles or component parts of vehicles without manufacturer's numbers.*—(a) Any person who knowingly buys, receives, disposes of, sells, offers for sale, conceals, or has in his possession any motor vehicle, or engine or transmission or component part which has been stolen or removed from a motor vehicle and from which the manufacturer's serial or engine number or other distinguishing number or identification mark or number placed thereon under assignment from the Division has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of said motor vehicle or engine or transmission or component part is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment, or both, in the discretion of the court.

(b) The commissioner and such officers and inspectors of the Division of Motor Vehicles as he has designated may take and possess any motor vehicle or

component part if its engine number, vehicle identification number, or manufacturer's serial number has been altered, changed, or obliterated or if such officer has probable cause to believe that the driver or person in charge of the motor vehicle or component part has violated subsection (a) above. Any officer who so takes possession of a motor vehicle or component part shall immediately notify the Division of Motor Vehicles and the rightful owner, if known. The notification shall contain a description of the motor vehicle or component part and any other facts that may assist in locating or establishing the rightful ownership thereof or in prosecuting any person for a violation of the provisions of this Article.

(c) Within 15 days after seizure of a motor vehicle or component part pursuant to this section, the Division shall send notice by certified mail to the person from whom the property was seized and to all claimants to the property whose interest or title is in the registration records in the Division of Motor Vehicles that the Division has taken custody of the motor vehicle or component part. The notice shall also contain the following information:

(1) The name and address of the person or persons from whom the motor vehicle or component part was seized;

(2) A statement that the motor vehicle or component part has been seized for investigation as provided in this section and that the motor vehicle or component part will be released to the rightful owner:

(a) upon a determination that the identification number has not been altered, changed, or obliterated; or

(b) upon presentation of satisfactory evidence of the ownership of the motor vehicle or component part if no other person claims an interest in it within 30 days of the date the notice is mailed. Otherwise, a hearing regarding the disposition of the motor vehicle or component part may take place in a court having jurisdiction.

(3) The name and address of the officer to whom evidence of ownership of the motor vehicle or component part may be presented; and

(4) A copy statement of the text contained in this section.

(d) Whenever a motor vehicle or component part comes into the custody of an officer, the Division of Motor Vehicles may commence a civil action in the District Court in the county in which the motor vehicle or component part was seized to determine whether the motor vehicle or component part should be destroyed, sold, converted to the use of the Division or otherwise disposed of by an order of the court. The Division shall give notice of the commencement of such an action to the person from whom the motor vehicle or component part was seized and all claimants to the property whose interest or title is in the registration records of the Division of Motor Vehicles. Notice shall be by certified mail sent within 10 days after the filing of the action. In addition, any possessor of a motor vehicle or component part described in this section may commence a civil action under the provisions of this section, to which the Division of Motor Vehicles may be made a party, to provide for the proper disposition of the motor vehicle or component part.

(e) Nothing in this section shall preclude the Division of Motor Vehicles from returning a seized motor vehicle or component part to the owner following presentation of satisfactory evidence of ownership, and, if determined necessary, requiring the owner to obtain an assignment of an identification

number for the motor vehicle or component part from the Division of Motor Vehicles.

(f) No court order providing for disposition shall be issued unless the person from whom the motor vehicle or component was seized and all claimants to the property whose interest or title is in the registration records in the Division of Motor Vehicles are provided a postseizure hearing by the court having jurisdiction. Ten days' notice of the postseizure hearing shall be given by certified mail to the person from whom the motor vehicle was seized and all claimants to the property whose interest or title is in the registration records in the Division of Motor Vehicles. If such motor vehicle or component part has been held or identified as evidence in a pending civil or criminal action or proceeding, no final disposition of such motor vehicle or component part shall be ordered without prior notice to the parties in said proceeding.

(g) At a hearing held pursuant to any action filed by the Division to determine the disposition of any motor vehicle or component part seized pursuant to this section, the court shall consider the following:

(1) If the evidence reveals either that the motor vehicle or component part identification number has not been altered, changed or obliterated or that the identification number has been altered, changed, or obliterated but satisfactory evidence of ownership has been presented, the motor vehicle or component part shall be returned to the person entitled to it. If ownership cannot be established, nothing in this section shall preclude the return of said motor vehicle or component part to a good faith purchaser following the presentation of satisfactory evidence of ownership thereof and, if necessary, upon the good faith purchaser's obtaining an assigned number from the Division of Motor Vehicles and posting a reasonable bond for a period of three years. The amount of the bond shall be set by the court.

(2) If the evidence reveals that the motor vehicle or component part identification number has been altered, changed, or obliterated and satisfactory evidence of ownership has not been presented, the motor vehicle or component part shall be destroyed, sold, converted to the use of the Division of Motor Vehicles or otherwise disposed of, as provided for by order of the court.

(h) At the hearing, the Division shall have the burden of establishing, by a preponderance of the evidence, that the motor vehicle or component part has been stolen or that its identification number has been altered, changed, or obliterated.

(i) At the hearing any claimant to the motor vehicle or component part shall have the burden of providing satisfactory evidence of ownership.

(j) An officer taking into custody a motor vehicle or component part under the provisions of this act is authorized to obtain necessary removal and storage services, but shall incur no personal liability for such services. The person or company so employed shall be entitled to reasonable compensation as a claimant under (e), and shall not be deemed an unlawful possessor under (a)."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

H. B. 137 CHAPTER 593

AN ACT TO ALLOW PUBLIC AND NONPROFIT HUMAN SERVICES PROGRAMS TO PURCHASE PERMANENT LICENSE TAGS FOR AGENCY VEHICLES, AND TO INCREASE THE FEE FOR PERMANENT REGISTRATION PLATES ISSUED TO THE STATE AND CERTAIN NONPROFIT ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-84 is amended by rewriting the first sentence of paragraph 7 to read:

"The Division of Motor Vehicles shall, upon appropriate certification of financial responsibility, issue to Sheltered Workshops recognized or approved by the Division of Vocational Rehabilitation Services and to public and nonprofit agencies or organizations which provide transportation for or operate programs subject to and approved in accordance with standards adopted by the Commission on Mental Health, Mental Retardation and Substance Abuse Services of the Department of Human Resources upon application and payment of a fee of six dollars ($6.00) for each plate, a permanent registration plate for vehicles registered to and operated by such agencies."

Sec. 2. G.S. 20-84 and 20-84.1 are amended by deleting the phrase "three dollars and fifty cents ($3.50)" each time it appears in these sections and inserting in lieu thereof the phrase "six dollars ($6.00)".

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

H. B. 147 CHAPTER 594

AN ACT TO ALLOW ALL HOSPITALS OWNED AND OPERATED BY A COUNTY TO RECEIVE SEMIANNUAL SALES TAX REFUNDS.

The General Assembly of North Carolina enacts:

Section 1. The fourth sentence of G.S. 105-164.14(b) is rewritten to read:

"This subsection does not apply to organizations, corporations, and institutions that are owned and controlled by the United States, the State, or a unit of local government, except hospital facilities created under Article 12 of Chapter 131 of the General Statutes and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under this subsection instead of annual refunds under subsection (c)."

Sec. 2. Any nonprofit hospital owned and controlled by a unit of local government may submit a written request to the Secretary of Revenue to receive semiannual refunds under G.S. 105-164.14(b) instead of annual refunds under G.S. 105-164.14(c). The request is effective beginning with the six-month refund period following the date of the request and applies to sales and use taxes paid on or after the first day of the refund period for which the request is effective.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

H. B. 291 **CHAPTER 595**

AN ACT TO PROVIDE THAT THE NEW HANOVER COUNTY BOARD OF COMMISSIONERS SHALL BE ELECTED FROM DISTRICTS, AND TO EXPAND THE BOARD TO SEVEN SEATS, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. Effective on the first Monday in December of 1986, the New Hanover County Board of Commissioners shall consist of seven members. Until that date, it shall consist of five members.

Sec. 2. In the 1984 election, three commissioners shall be elected at large for two-year terms. The two commissioners elected in the 1982 election for four-year terms shall serve until the expiration of their terms.

Sec. 3. (a) The county board of commissioners shall divide the county into seven districts, and one member shall be elected beginning in 1986 from each district, so that each member represents the same number of persons as nearly as possible, and only the qualified voters of a district shall nominate candidates and elect the member who resides in the district for the seat allocated to that district.

(b) The board of county commissioners shall cause a map of the districts so laid out to be drawn up and filed as provided in G.S. 153A-20 and G.S. 153A-22, and the districts may be revised as provided in G.S. 153A-22.

(c) The initial district plan shall be adopted by the board of county commissioners no later than January 1, 1985.

(d) Each commissioner must reside in the district for which he is elected.

Sec. 4. In the 1986 election and quadrennially thereafter, one commissioner shall be elected from each of the seven districts to serve a four-year term.

Sec. 5. Chapter 340, Public Laws of 1905 and Chapter 816, Public Laws of 1909, are repealed.

Sec. 6. Effective on the first Monday in December of 1986, the New Hanover County Board of Commissioners shall consist of seven members. Until that date, it shall consist of five members.

Sec. 7. In the 1984 election, three commissioners shall be elected at large for two-year terms. The two commissioners elected in the 1982 election for four-year terms shall serve until the expiration of their terms.

Sec. 8. (a) The county board of commissioners shall divide the county into seven districts with each district having the same population as nearly as possible, and one commissioner shall be elected from each district. Members shall reside in the districts according to the apportionment plan adopted, but the qualified voters of the entire county shall nominate all candidates for and elect all members of the board.

(b) The district apportionment plan shall be adopted by the board of county commissioners by ordinance no later than January 1, 1985. Once adopted, the plan may only be changed in accordance with law.

Sec. 9. In the 1986 county election, the four elected county commissioners receiving the highest number of votes shall be elected for four-year terms and the three elected county commissioners receiving the next highest number of votes shall be elected for two-year terms. Successors shall be elected for four-year terms.

Sec. 10. Chapter 340, Public Laws of 1905 and Chapter 816, Public Laws of 1909, are repealed.

Sec. 11. (a) Sections 1 through 10 of this act shall become effective only if approved by the voters of New Hanover County in a referendum. The New Hanover County Board of Elections shall hold a special election on October 11, 1983, on the question of approval of Sections 1 through 10 of this act.

(b) The form of the ballot shall be:

"VOTE FOR ONLY ONE CHOICE

1. ☐ FOR expansion of New Hanover County Board of Commissioners to seven members and election by a district system, with county commissioners residing in the district for which elected and only the qualified voters of the district voting in that district elections.
2. ☐ FOR expansion of New Hanover County Board of Commissioners to seven members and election by districts so that members shall reside in the districts according to the apportionment plan adopted, but the qualified voters of the entire county shall nominate all candidates for and elect all members of the board.
3. ☐ FOR New Hanover County Board of Commissioners consisting of five members elected by an at-large system."

(c) If a majority of the votes cast are in favor of question 1, then Sections 1 through 5 of this act shall become effective upon the date of certification of the election results, and Sections 6 through 10 of this act shall have no force or effect.

(d) If a majority of the votes cast are in favor of question 2, then Sections 6 through 10 of this act shall become effective upon the date of certification of the election, and Sections 1 through 5 of this act shall have no force or effect.

(e) If a majority of the votes cast are in favor of question 3, then Sections 1 through 10 of this act shall have no force or effect.

Sec. 12. (a) If neither questions 1, 2, or 3 receives a majority of the votes cast in the October 11, 1983, election, then the New Hanover County Board of Elections shall hold a second special election on November 8, 1983.

(b) At the second special election, the voters shall vote between the two questions provided in Section 11 of this act which received the highest number of votes in the October 11, 1983, election. Only those two questions shall appear on the ballot. Sections 10(c), 10(d), and 10(e) of this act shall determine the effect the second special election has on Sections 1 through 10 of this act. Absentee ballots for the second special election shall be available at least 10 days before the election.

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

H. B. 1044 CHAPTER 596

AN ACT TO AUTHORIZE LOCAL ADMINISTRATIVE BOARDS OF COMMUNITY COLLEGES TO ESTABLISH COOPERATIVE PROGRAMS WITH HIGH SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115D-20(4) is amended by adding a new sentence, at the end, to read:

"Provided, notwithstanding any law or administrative rule to the contrary, local administrative boards and local school boards may establish cooperative programs in the areas they serve to provide for college courses to be offered to qualified high school students with college credits to be awarded to those high school students upon the successful completion of the courses."

Sec. 2. Any local cooperative program developed under this act is subject to approval by the State Board of Community Colleges.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

H. B. 292 CHAPTER 597

AN ACT TO PROVIDE A REFERENDUM ON THE QUESTION OF CHANGING THE MANNER OF ELECTION OF THE WILMINGTON CITY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. Section 3.1 of the Charter of the City of Wilmington, being Chapter 495, Session Laws of 1977, is rewritten to read:

"Sec. 3.1. Composition of City Council. (a) The city council shall consist of six members. The city council shall divide the city into six districts, and beginning in 1985 one member shall be elected from each district, so that each member represents the same number of persons as nearly as possible, and only the qualified voters of each district shall vote in that district election. In 1983, the election shall be at large.

(b) The council shall cause a map of the districts so laid out to be drawn up and filed as provided in G.S. 160A-22 and G.S. 160A-23, and the districts may be revised as provided in G.S. 160A-23.

(c) The initial district plan shall be adopted by the city council no later than January 1, 1985.

(d) Each council member must reside in the district for which he is elected."

Sec. 2. Section 4.1 of the Charter of the City of Wilmington, being Chapter 495, Session Laws of 1977, is rewritten to read:

"Sec. 4.1. Beginning in 1985, elections for mayor and city council shall be conducted on a partisan basis as provided in G.S. 163-291."

Sec. 3. Section 4.2 of the Charter of the City of Wilmington is rewritten to read:

"Sec. 4.2. (a) At the regular municipal election in 1983, three council members shall be elected for two-year terms.

(b) In the 1985 municipal election and quadrennially thereafter, one council member shall be elected from each of the six districts to serve a four-year term."

Sec. 4. The terms of office of the three council members elected in 1981 for four-year terms are not affected by this act.

Sec. 5. Section 3.1 of the Charter of the City of Wilmington, being Chapter 495, Session Laws of 1977, is rewritten to read:

"Sec. 3.1. Composition of City Council. (a) The city council shall consist of six members. The city council shall divide the city into six districts, and beginning in 1985 one member shall be elected from each district, so that each member represents the same number of persons as nearly as possible, but all the qualified voters of the city shall nominate and elect all the members of the council. In 1983, the election shall be at large.

(b) The council shall cause a map of the districts so laid out to be drawn up and filed as provided in G.S. 160A-22 and G.S. 160A-23, and the districts may be revised as provided in G.S. 160A-23.

(c) The initial district apportionment plan shall be adopted by the city council no later than January 1, 1985.

(d) Each council member must reside in the district for which he is elected."

Sec. 6. Section 4.2 of the Charter of the City of Wilmington is rewritten to read:

"Sec. 4.2. (a) At the regular municipal election in 1983, three council members shall be elected for two-year terms.

(b) In the 1985 municipal election, the three elected council members receiving the highest number of votes shall be elected for four-year terms and the three elected council members receiving the next highest number of votes shall be elected for two-year terms. Successors shall be elected for four-year terms."

Sec. 7. The terms of office of the three council members elected in 1981 for four-year terms are not affected by this act.

Sec. 8. (a) Sections 1, 3, 4, 5, 6, and 7 of this act shall become effective only if approved by the voters of the City of Wilmington in a referendum. The New Hanover County Board of Elections shall hold a special election on October 11, 1983, on the question of approval of Sections 1, 3, 4, 5, 6, and 7 of this act.

(b) The form of the ballot shall be:

"VOTE FOR ONLY ONE CHOICE

1. ☐ FOR election of Wilmington City Council by a district system with council members residing in the district for which elected and only the qualified voters of the district voting in that district election.
2. ☐ FOR election of Wilmington City Council by a district system with council members residing in the district for which elected, but all the qualified voters of the city voting in that district election.
3. ☐ FOR at-large election of the Wilmington City Council."

(c) If a majority of the votes cast are in favor of question 1, then Sections 1, 3, and 4 of this act shall become effective upon the date of certification of the election results, and Sections 5, 6, and 7 of this act shall have no force or effect.

(d) If a majority of the votes cast are in favor of question 2, then Sections 5, 6, and 7 of this act shall become effective upon the date of certification of the election results, and Sections 1, 3, and 4 of this act shall have no force or effect.

(e) If a majority of the votes cast are in favor of question 3, then Sections 1, 3, 4, 5, 6, and 7 of this act shall have no force or effect.

Sec. 9. (a) If neither question 1, 2, nor 3 receives a majority of the votes cast in the October 11, 1983, election, then the New Hanover County Board of Elections shall hold a second special election on November 8, 1983.

(b) At the second special election, the voters shall vote between the two questions provided in Section 8(b) of this act which received the two highest number of votes in the October 11, 1983, special election. Only those two questions shall appear on the ballot. Sections 8(c), 8(d), and 8(e) of this act as appropriate shall determine the effect the second special election has on Sections 1, 3, 4, 5, 6, and 7 of this act. Absentee ballots for the second special election shall be available at least 10 days before the election.

Sec. 10. (a) Section 2 of this act shall become effective only if approved by the voters of the City of Wilmington in a referendum, and if so approved shall become effective beginning with the 1985 election. The referendum shall be conducted by the New Hanover County Board of Elections on October 8, 1983.

(b) The form of the ballot shall be:

"☐ FOR election of Wilmington Mayor and City Council on a partisan basis.

☐ AGAINST election of Wilmington Mayor and City Council on a partisan basis."

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

H. B. 1093 CHAPTER 598

AN ACT TO ENSURE THAT NEW AUTO BUYERS HAVE ADEQUATE REMEDIES AGAINST AUTO MANUFACTURERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25-2-103(1)(d) is amended by adding the following new sentence after the existing sentence:

"Any manufacturer of self-propelled motor vehicles, as defined in G.S. 20-4.01, is also a 'seller' with respect to buyers of its product to whom it makes an express warranty, notwithstanding any lack of privity between them, for purposes of all rights and remedies available to buyers under this Article."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

H. B. 1108 CHAPTER 599

AN ACT TO AMEND G.S. 97-28 TO PERMIT USE OF LEAVE DURING THE FIRST SEVEN DAYS OF DISABILITY UNDER THE WORKER'S COMPENSATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-28 is hereby rewritten to read as follows:

"§ 97-28. *Seven-day waiting period; exceptions.*—No compensation, as defined in G.S. 97-2(11), shall be allowed for the first seven calendar days of disability resulting from an injury, except the benefits provided for in G.S. 97-25. Provided however, that in the case the injury results in disability of more than

28 days, the compensation shall be allowed from the date of the disability. Nothing in this section shall prevent an employer from allowing an employee to use paid sick leave, vacation or annual leave, or disability benefits provided directly by the employer during the first seven calendar days of disability."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

H. B. 1132 CHAPTER 600

AN ACT TO REMOVE CERTAIN PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF TRYON AND TO REINCORPORATE THE TOWN OF LYNN.

The General Assembly of North Carolina enacts:

Section 1. The following described property, previously annexed as a satellite annexation by the Town of Tryon pursuant to Article 4A, Part 4 of Chapter 160A of the General Statutes, is hereby removed from the corporate limits of the Town of Tryon:

Tract No. 1: BEGINNING on a nail and cap located at a point where the center of North Carolina Secondary Road #1509 intersects the Southern margin of North Carolina Highway #108; and running thence from said beginning point as above located and along the center of North Carolina Secondary Road #1509, three (3) calls as follows: South 71 degrees 11 minutes 25 seconds East 67.94 feet to a nail and cap, South 79 Degrees 12 minutes 25 seconds East 64.23 feet to a nail and cap and South 75 degrees 50 minutes 45 seconds East 16.80 feet to a point in the center of said road: thence South 58 degrees 00 minutes West (passing an iron pin at 42.50 feet) 213.25 feet to a point; thence North 27 degrees 47 minutes 50 seconds West 71.84 feet to a nail and cap; thence North 10 degrees 39 minutes West 39.77 feet to a nail and cap located on the margin of North Carolina Highway #108; thence along the Southern margin of North Carolina Highway #108, North 58 degrees 45 minutes 35 seconds East 39.17 feet to the point of BEGINNING.

The above described property is the identical property conveyed by Margaret H. Smith and Horace A. Smith to Lynnco Associates, a Partnership, by deed dated December 10, 1982 recorded in Book 180, Page 1852 office of Register of Deeds for Polk County.

Tract No. 2: BEGINNING on a nail and cap located on the Southern edge of the pavement of North Carolina Highway #108, said nail and cap being located at the terminus of the sixth call in that certain deed of conveyance from Margaret H. Smith and Horace A. Smith, her husband to Lynnco Associates, a Partnership, dated December 10, 1982, recorded in Book 180, Page 1852, Polk County Registry; and running thence from said beginning point as above located, South 10 degrees 39 minutes East 39.77 feet to a nail and cap; thence South 27 degrees 47 minutes 50 seconds East 71.84 feet to a point; thence South 58 degrees 00 West 53.02 feet to an old iron pin; thence South 65 degrees 33 minutes 35 seconds West 66.5 feet to a new iron pin; thence North 84 degrees 21 minutes 30 seconds West 27.81 feet to an old iron pin, said iron pin being a corner of the property formerly belonging to Historic Mimosa Inn, Inc.; thence North 14 degrees 00 minutes West 96.16 feet to an old nail and cap located on the Southern edge of the pavement of North Carolina Highway #108; thence

along the Southern Margin of North Carolina Highway #108, two calls as follows: North 63 degrees 15 minutes 35 seconds East 86.26 feet to a nail and cap and North 58 degrees 45 minutes 35 seconds East 45.10 feet to the point of BEGINNING.

The above described property is the identical property conveyed by Margaret H. Smith and Horace A. Smith to Lynnco Associates, a Partnership, by deed dated December 30, 1982, recorded in Book 180, Page 2048, office of Register of Deeds for Polk County.

Tract No. 3: BEGINNING at an iron pin in old North Carolina Highway #108 (now abandoned), said Beginning iron pin being located at the Southwest corner of the old Jess Foster store, and running South 74 degrees West 72 feet to the beginning stake in a conveyance from Norman Foster and Mamie T. Foster, his wife, to Waverly Hester and Sarah Hester, his wife, dated May 15, 1967 and recorded in Book 141 at Page 140, Polk County Registry; thence North 16 degrees West 65 feet to a point in or near the center of the present North Carolina Highway #108; thence with North Carolina Highway #108 South 81 degrees East 60 feet (said course and distance being an approximation) to a point in the Southern margin of North Carolina Highway #108; thence South 46 degrees 30 minutes East 41.5 feet to the BEGINNING.

The above described property is the identical property conveyed by Norman Foster and Mamie T. Foster to Lynnco Associates, a Partnership, by deed dated December 29, 1982, recorded in Book 180, Page 2050, office of Register of Deeds for Polk County.

Sec. 2. Incorporation. The inhabitants of the Town of Lynn are a body corporate and politic under the name of "Town of Lynn". Under that name, they have all the powers, duties, rights, privileges and immunities conferred and imposed on cities by the general laws of North Carolina.

Sec. 3. Corporate boundaries. Until modified in accordance with law, the boundaries of the Town of Lynn are as follows: A circle with a radius of one-half mile and its center at the center of the bridge crossing the Pacolet River in the Town of Lynn.

Sec. 4. Elected officers. The elected officers of the Town shall be a Board of Commissioners composed of five members and a Mayor elected by the voters of the Town. The term of the Mayor shall be two years, and after the initial election as provided for hereinafter, the terms of members of the Board of Commissioners shall be four years.

At the 1983 municipal election held on the date required by G.S. 163-279(a)(1), the three candidates for commissioner receiving the largest number of votes, shall be elected for four-year terms; the two candidates for commissioner receiving the next largest number of votes shall be elected for two-year terms. At the 1985 municipal election and quadrennially thereafter, two commissioners shall be elected for four-year terms. At the 1987 municipal election and quadrennially thereafter, three commissioners shall be elected for four-year terms.

Sec. 5. Election method. The officers of the Town shall be elected by the nonpartisan plurality method as provided in G.S. 163-292.

Sec. 6. Mayor-council form. The Town shall operate under the mayor-council form of government in accordance with Part 3 of Article 7 of Chapter 160A of the General Statutes.

Sec. 7. Election laws. Elections in the Town of Lynn shall be conducted in accordance with Subchapter IX of Chapter 163 of the General Statutes, and shall be conducted by the Polk County Board of Elections.

Sec. 8. Interim budget. The Board of Commissioners and Mayor may adopt a budget ordinance for the 1983-84 fiscal year, following their qualification for office, without having to comply with the budget preparation and adoption timetable set out in the Local Government Budget and Fiscal Control Act. Taxes may be paid at par on face amount within 90 days of adoption of the budget, and thereafter according to the schedule in G.S. 105-360 as if the taxes had been due on September 1, 1983.

Sec. 9. Vacancies. The provisions of G.S.160A-63 shall not apply to the Town of Lynn until after the first election for Mayor and Board of Commissioners, which shall be conducted on November 8, 1983.

Sec. 9.5. Special election for approval. The Board of Elections in Polk County shall call and conduct a special election on August 23, 1983, for the purpose of submitting to the qualified voters of the area heretofore described as the proposed corporate limits of the Town of Lynn, the question of whether such area shall be incorporated as a municipal corporation known as the Town of Lynn. In conducting the election required to be held by this act, the Board of Elections shall follow the procedures contained in G.S. 163-288.2, in this act, and the procedures contained in Chapter 163 of the General Statutes regarding municipal elections which are not in conflict with this act.

In the special election, those voters who favor the incorporation of the Town of Lynn as provided in this act shall vote a ballot upon which shall be printed the words "FOR Incorporation of the Town of Lynn," and those voters who oppose the incorporation of the Town of Lynn as provided in this act shall vote a ballot upon which shall be printed the words "AGAINST Incorporation of the Town of Lynn."

If the majority of the votes cast in such special election are cast "FOR Incorporation of the Town of Lynn," then the town becomes incorporated upon certification of the election results. If the majority of the votes cast in such special election are cast "AGAINST Incorporation of the Town of Lynn," then the provisions of Sections 2 through 9 of this act shall have no force and effect.

Sec. 10. Effective date. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

S. B. 356 CHAPTER 601

AN ACT TO REVISE THE LEASE FEES PERTAINING TO SHELLFISH LEASES.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of G.S. 113-202(d) is amended by deleting the language "twenty-five dollars ($25.00)" and substituting "one hundred dollars ($100.00)".

Sec. 2. G.S. 113-202(g) is amended by deleting the second sentence and the last two sentences of the paragraph.

Sec. 3. G.S. 113-202(j) is amended by adding a new sentence after the second sentence to read as follows: "Before a renewal lease is issued by the

Department, the applicant for a renewal lease must pay a lease renewal fee of fifty dollars ($50.00)."

Sec. 4. This act shall become effective July 1, 1983, and shall be reconsidered on or before July 1, 1989, and every six years thereafter, by the Joint Legislative Commission on Governmental Operations.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

S. B. 372 CHAPTER 602

AN ACT TO ASSURE THAT IF THE WESTERN RESIDENCE OF THE GOVERNOR IN ASHEVILLE IS DAMAGED OR DESTROYED, IT WILL BE REPAIRED.

Whereas, the Western Residence of the Governor in Asheville and the land on which it is located were contributed to the State of North Carolina by the Asheville Chamber of Commerce; and

Whereas, many capital improvements have been made to the Western Residence of the Governor with funds from private sources; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Chapter 143 of the General Statutes to read:

"§ 143-345.7. *Repair and reconstruction of the Western Residence of the Governor.*—If the Western Residence of the Governor in Asheville is damaged or destroyed by fire or other disaster, it shall be repaired or reconstructed. Funds from the Contingency and Emergency Fund may be used for this purpose with the approval of the Director of the Budget if insurance coverage on the property should be inadequate. Insurance on the Western Governor's mansion shall be as adequate as possible and used in case of a fire or devastation of the mansion for the purpose of rebuilding or repairing the mansion."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

S. B. 427 CHAPTER 603

AN ACT TO CREATE THE AUCTIONEER RECOVERY FUND.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created and established in the office of the State Treasurer the Auctioneer Recovery Fund.

Sec. 2. G.S. 85B is hereby amended by adding new sections which read as follows:

"§ 85B-4.1. *Auctioneer Recovery Fund.*—(a) In addition to the license fees provided for above, upon the application for a license and upon renewal of every license and every regular renewal date thereafter, the Commission shall charge each and every licensee an amount not to exceed fifty dollars ($50.00) per year to be included in the Auctioneer Recovery Fund (hereinafter the Fund).

(b) The purposes of the Fund shall be as follows:

(1) When an auctioneer or apprentice auctioneer has been found guilty of violating any of the provisions of G.S. 85B or the rules promulgated thereunder, and upon the entry of a final agency decision by the

Commission or if appealed, a court order, the Commission is authorized to pay the aggrieved party or parties an aggregate amount not to exceed ten thousand dollars ($10,000) against any one auctioneer or apprentice auctioneer, provided that the auctioneer or apprentice auctioneer has refused to pay such claim within a period of 20 days of entry of the final agency decision or court order and provided further that the amount or amounts of money in question are certain and liquidated.

(2) The Commission shall maintain a minimum level of one hundred thousand dollars ($100,000) for recovery and guaranty purposes. These funds may be invested and reinvested by the State Treasurer in interest bearing accounts, such interest accrued being added to the Fund. Sufficient liquidity will be maintained so that there will be money available to satisfy any and all claims which may be processed through the Board. The Fund may be disbursed by a warrant drawn against the State Treasurer or other method at the discretion of the State Treasurer.

(3) The Commission, in its discretion, may use any and all funds in excess of one hundred thousand dollars ($100,000) for the following purposes:

a. To carry out the advancement of education and research in the auctioneering profession for the benefit of those licensed under the provisions of this Chapter and the improvement of and making even more efficient the industry as such;

b. To underwrite educational seminars, training centers, and other forms of educational projects for the use and benefit generally of licensees;

c. To sponsor, contract for and to underwrite any and all other educational and research projects of a similar nature having to do with the advancement of the auctioneer profession in North Carolina; and

d. To cooperate with associations of auctioneers and any and all other groups for the enlightenment and advancement of the auctioneer profession of North Carolina.

"§ 85B-4.2. *Special provisions.*—(a) In the event that an auctioneer or apprentice auctioneer is found guilty of any of the provisions of G.S. 85B or the rules promulgated thereunder, and if the amount of money lost by the aggrieved party or parties is in dispute or cannot be determined accurately, then the amount of damages shall be determined by the superior court in the county where the alleged violation took place, provided that the board has previously determined that a violation of the license laws or rules and regulations has occurred and a final agency decision has been entered.

(b) If such final agency decision has been entered and the rights of the licensee have been finally adjudicated, then the superior court shall make a finding as to the monetary damages growing out of the aforesaid violation or violations."

Sec. 3. Until such time as the Fund reaches the minimum level set out in Section 2 above, the Commission shall not be authorized to disburse any payments to an aggrieved party. However, any party aggrieved and awarded payment by a final agency decision dated after the effective date of this act shall hold a vested right for payment once the Fund reaches the minimum level.

Sec. 4. G.S. 85B-4(f) is amended to read as follows:

"(f) No person shall be issued an auctioneer or apprentice auctioneer license until he has made the contribution to the Auctioneer Recovery Fund as required by G.S. 85B-4.1."

Sec. 5. G.S. 85B-5 is amended on line 9 by deleting the phrase, "file the bond required under G.S. 85B-4" and inserting in lieu thereof, "meet the requirements of G.S. 85B-4.1".

Sec. 6. G.S. 85B-8(a) is amended by adding a new subsection which reads as follows:

"(8) Failure to make the required contribution to the Auctioneer Recovery Fund."

Sec. 7. This act is effective July 1, 1983.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

S. B. 453

CHAPTER 604

AN ACT TO AMEND THE AUTHORITY OF THE DEPARTMENT OF TRANSPORTATION TO SET FEES FOR SIGNS, SIGN PERMITS, AND JUNKYARD PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-89.56 is amended by rewriting the last sentence in the second paragraph to read:

"The fees for logo sign installation and maintenance shall be set by the Board of Transportation based on cost and shall not exceed the following amounts:

Initial installation fee	$150.00
Annual renewal fee	150.00
Replacement fee for damaged sign or substituted sign	35.00.

If the cost of installing or maintaining a logo sign exceeds the maximum fee authorized by this section, the Department may not perform the installation or maintenance."

Sec. 2. G.S. 136-133 is amended by deleting the word "reasonable" in the last sentence of the section and further amended by inserting two new sentences at the end of the present section to read:

"The fees for directional signs as set forth in G.S. 136-129(1) and G.S. 136-129.1(1) shall not exceed a twenty dollar ($20.00) initial fee and a fifteen dollar ($15.00) annual renewal fee. The fees for outdoor advertising structures, as set forth in G.S. 136-129(4) and (5) shall not exceed a twenty dollar ($20.00) initial fee and a fifteen dollar ($15.00) annual renewal fee."

Sec. 3. G.S. 136-149 is amended by deleting the word "reasonable" in the last sentence of the section and further amended by inserting a new sentence at the end of the present section to read:

"The fees for junkyard permits to be issued under this Article shall not exceed a twenty dollar ($20.00) initial fee and a fifteen dollar ($15.00) annual renewal fee."

Sec. 4. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 79 CHAPTER 605

AN ACT TO MODIFY THE REGULATION OF HAZARDOUS WASTE AND PCB LANDFILLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-166.18(c)(8) is rewritten to read:

"(8) Location, design, ownership and construction of hazardous waste facilities; provided, however, that no hazardous waste landfill facility or polychlorinated biphenyl landfill facility shall be located within 25 miles of any other hazardous waste landfill facility or polychlorinated biphenyl landfill facility;".

Sec. 2. G.S. 143B-216.10(c) is amended by adding a new sentence at the end to read:

"Hazardous waste landfill facilities and polychlorinated biphenyl landfill facilities shall be detoxified as soon as technology which is economically feasible is available and sufficient money is available without additional appropriation."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 527 CHAPTER 606

AN ACT MAKING HONORABLE DISCHARGE FROM THE MILITARY A MITIGATING FACTOR UNDER THE FAIR SENTENCING ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1340.4(a)(2) is amended by adding a new sub-subdivision to read:

"o. The defendant has been honorably discharged from the United States armed services."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 758 CHAPTER 607

AN ACT TO PROVIDE FOR COURT REVIEW OF PLACEMENT FOLLOWING CERTAIN TERMINATIONS OF PARENTAL RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. Article 52 of Chapter 7A of the General Statutes is hereby amended by adding a new section, to follow G.S. 7A-658, and to read as follows:

"§ 7A-659. *Post termination of parental rights' placement court review.*—(a) The purpose of each placement review is to insure that every reasonable effort is being made to provide for a permanent placement plan for the child who has been placed in the custody of a county director or licensed child-placing agency, which is consistent with the child's best interest. At each review hearing the court may consider information from the Department of Social Services, the licensed child-placing agency, the guardian *ad litem*, the child, the foster parent, and any other person or agency the court determines is likely to aid in the review.

(b) The court shall conduct a placement review not later than six months from the date of the termination hearing when parental rights have been terminated by a petition brought by any person or agency designated in G.S. 7A-289.24(2) through (5) and a county director or licensed child-placing agency has custody of the child. The court shall conduct reviews every six months until the child is placed for adoption and the adoption petition is filed by the adoptive parents.

(1) No more than 30 days and no less than 15 days prior to each review, the clerk shall give notice of the review to the child if he is at least 12 years of age, the legal custodian of the child, the foster parent, the guardian *ad litem*, if any, and any other person the court may specify. Only the child if he is at least 12 years of age, the legal custodian of the child, the foster parent, and the guardian *ad litem* shall attend the review hearings, except as otherwise directed by the court.

(2) If a guardian *ad litem* for the child has not been appointed previously by the court in the termination proceeding, the court, at the initial six-month review hearing, may appoint a guardian *ad litem* to represent the child. The court may continue the case for such time as is necessary for the guardian *ad litem* to become familiar with the facts of the case.

(c) The court shall consider at least the following in its review:

(1) The adequacy of the plan developed by the county department of social services or a licensed child-placing agency for a permanent placement relative to the child's best interest and the efforts of the department or agency to implement such plan;

(2) Whether the child has been listed for adoptive placement with the North Carolina Adoption Resource Exchange, the North Carolina Photo Adoption Listing Service (PALS), or any other specialized adoption agency; and

(3) The efforts previously made by the department or agency to find a permanent home for the child.

(d) The court, after making findings of fact, shall affirm the county department's or child-placing agency's plans or require specific additional steps which are necessary to accomplish a permanent placement which is in the best interests of the child.

(e) If the child has been placed for adoption prior to the date scheduled for the review, written notice of said placement shall be given to the clerk to be placed in the court file and the review hearing shall be cancelled, with notice of said cancellation given by the clerk to all persons previously notified.

(f) The process of selection of specific adoptive parents shall be the responsibility of and within the discretion of the county department of social services or licensed child-placing agency. The guardian *ad litem* may request information from and consult with the county department or child-placing agency concerning the selection process. Any issue of abuse of discretion by the county department or child-placing agency in the selection process must be raised by the guardian *ad litem* within 10 days following the date the agency notifies the court and the guardian *ad litem* in writing of the filing of the adoption petition."

Sec. 2. Article 52 of Chapter 7A of the General Statutes is hereby amended by adding a new section to read as follows:

"§ 7A-660. *Review of agency's plan for child placement.*—(a) The director of social services or the director of the licensed private child-placing agency shall promptly notify the clerk to calendar the case for review of the department's or agency's plan for the child at a session of court scheduled for the hearing of juvenile matters in any case where:

(1) One parent has surrendered a child for adoption under the provisions of G.S. 48-9(a)(1) and the termination of parental rights proceedings have not been instituted against the non-surrendering parent within six months of the surrender by the other parent, or

(2) Both parents have surrendered a child for adoption under the provisions of G.S. 48-9(a)(1) and that child has not been placed for adoption within six months from the date of the more recent parental surrender.

(b) In any case where an adoption is dismissed or withdrawn and the child returns to foster care with a department of social services or a licensed private child-placing agency, then the department of social services or licensed child-placing agency shall notify the clerk within six months from the date the child returns to care to calendar the case for review of the agency's plan for the child at a session of court scheduled for the hearing of juvenile matters.

(c) Notification of the court required under subsections (a) or (b) of this section shall be by a petition for review. The petition shall set forth the circumstances necessitating the review under subsections (a) or (b). The review shall be conducted within 30 days following the filing of the petition for review unless the court shall otherwise direct. The court shall conduct reviews every six months until the child is placed for adoption and the adoption petition is filed by the adoptive parents. The initial review and all subsequent reviews shall be conducted pursuant to G.S. 7A-659."

Sec. 3. G.S. 7A-289.31(c1) is repealed.

Sec. 4. G.S. 7A-289.35 is repealed.

Sec. 5. This act shall become effective October 1, 1983, and shall apply to all children in the custody of a county department of social services or licensed child-placing agency as of that date.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 890 CHAPTER 608

AN ACT TO ALLOW ALL SANITARY DISTRICTS TO EXERCISE ALL POWERS PERMITTED BY THE SANITARY DISTRICT LAW.

The General Assembly of North Carolina enacts:

Section 1. Article 12 of Chapter 130 of the General Statutes is amended by adding a new section to read:

"§ 130-128.1. All corporate powers granted. Notwithstanding any limitation in the petition under G.S. 130-124, but subject to the provisions of G.S. 130-128(18)f., each sanitary district may exercise all of the powers granted to sanitary districts by this Article."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 951 CHAPTER 609

AN ACT TO AMEND AND REORGANIZE CHAPTER 159B OF THE GENERAL STATUTES AND TO CREATE A NEW ARTICLE TO PROVIDE FOR JOINT MUNICIPAL ASSISTANCE AGENCIES AND TO MAKE TECHNICAL AMENDMENTS TO G.S. 128-1 AND ARTICLE 3 OF CHAPTER 159 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 159B of the General Statutes is divided into four Articles: Article 1, to be entitled "Short Title, Legislative Findings and Definitions", shall consist of G.S. 159B-1 through G.S. 159B-3; Article 2, to be entitled, "Joint Agencies; Municipalities", shall consist of G.S. 159B-4 through G.S. 159B-35; Article 3, to be entitled, "Joint Municipal Assistance Agencies", shall consist of G.S. 159B-36.1 through G.S. 159B-40 as enacted by this act; and Article 4, to be entitled "Construction" shall consist of G.S. 159B-36 as recodified as G.S. 159-41.

Sec. 2. G.S. 159B-2 is amended by adding the following at the end:

"In addition to the authority granted municipalities to jointly plan, finance, develop, own and operate electric generation and transmission facilities by Article 2 of this Chapter and the other powers granted in said Article 2, and in addition and supplemental to powers otherwise conferred on municipalities by the laws of this State for interlocal cooperation, it is desirable for the State of North Carolina to authorize municipalities to form joint municipal assistance agencies which shall be empowered to provide aid and assistance to municipalities in the construction, ownership, maintenance, expansion and operation of their electric systems and in such other ways as hereinafter provided. In order to provide maximum economies and efficiencies to municipalities and the consuming public in the generation and transmission of electric power and energy contemplated by Article 2 of this Chapter, it is also desirable that the joint municipal assistance agencies authorized herein be empowered to act as provided in Article 3 of this Chapter and that such agency or agencies be empowered to act for and on behalf of any one or more municipalities, as requested, with respect to the construction, ownership, maintenance, expansion and operation of their electric systems."

Sec. 3. G.S. 159B-3(3) is rewritten to read:

"(3) 'Governing board' shall mean the legislative body, council, board of commissioners, board of trustees, or other body charged by law with governing the municipality, joint agency, or joint municipal assistance agency."

Sec. 4. G.S. 159B-3(4) is rewritten to read:

"(4) 'Joint agency' shall mean a public body and body corporate and politic organized in accordance with the provisions of Article 2 of this Chapter."

Sec. 5. G.S. 159B-3 is amended by adding a new subdivision to read:

"(4a) 'Joint municipal assistance agency' shall mean a public body and body corporate and politic organized in accordance with the provisions of Article 3 of this Chapter."

Sec. 6. G.S. 159B-3 is amended by adding a new subdivision to read:

"(9) 'Electric system' shall mean any electric power generation, transmission or distribution system."

Sec. 7. A new Article 3 of Chapter 159B is enacted to read:

"ARTICLE 3.

"Joint Municipal Assistance Agencies.

"§ 159B-36.1. *Joint municipal assistance agencies.*—The purpose of this Article is to authorize municipalities to form one or more joint municipal assistance agencies which shall be empowered to provide aid and assistance to municipalities in the construction, ownership, maintenance, expansion and operation of their electric systems, to do such other acts and things as hereinafter provided and to carry out the powers and responsibilities hereinafter granted in this Chapter. It shall also be the purpose of a joint municipal assistance agency to provide aid and assistance to any joint agency in the exercise of its respective powers and functions. The term 'provide aid and assistance' shall be liberally construed.

"§ 159B-37. *Joint municipal assistance agencies authorized.*—(a) Any two or more municipalities may organize a joint municipal assistance agency, which shall be a public body and body corporate and politic. Any municipality is hereby authorized to become a member of any such joint municipal assistance agency upon a determination, by resolution or ordinance of its governing board, that economies, efficiencies and other benefits might be achieved from participation in such an agency.

The resolution or ordinance determining it desirable for a municipality to become a member of a joint municipal assistance agency (which need not prescribe in detail the basis for the determination) shall set forth the names of the municipalities which are proposed to be initial members of the joint municipal assistance agency. The governing board of the municipality shall thereupon by ordinance or resolution appoint one commissioner and one alternate commissioner of the joint municipal assistance agency who may, at the discretion of the governing board, be an officer or employee of the municipality.

Any two or more commissioners so named may file with the Secretary of State an application signed by them setting forth (i) the names of all the proposed member municipalities; (ii) the name and official residence of each of the commissioners so far as known to them; (iii) a certified copy of the appointment evidencing their right to office; (iv) a statement that each governing board of each respective municipality appointing a commissioner has made the aforesaid determination; (v) the desire that a joint municipal assistance agency be organized as a public body and a body corporate and politic under this Chapter; and (vi) the name which is proposed for the joint municipal assistance agency.

The application shall be subscribed and sworn to by such commissioners before an officer or officers authorized by the laws of the State to administer and certify oaths.

The Secretary of State shall examine the application and, if he finds that the name proposed for the joint municiapl assistance agency is not identical with that of any other corporation of this State or of any agency or instrumentality thereof, or so nearly similar as to lead to confusion and uncertainty, he shall

receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded as herein provided, the joint municipal assistance agency shall constitute a public body and a body corporate and politic under the name proposed in the application. The Secretary of State shall make and issue to the commissioners executing the application a certificate of incorporation pursuant to this Chapter under the seal of the State, and shall record the same with the application. The certificate shall set forth the names of the member municipalities.

In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract of the joint municipal assistance agency, the joint municipal assistance agency, in the absence of establishing fraud in the premises, shall be conclusively deemed to have been established in accordance with the provisions of this Chapter upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate or of any new or supplemental certificate hereinafter provided for, duly certified by the Secretary of State, shall be admissible in evidence in any suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof.

Notice of the issuance of such certificate shall be given to all of the proposed member municipalities by the Secretary of State. If a commissioner of any such municipality has not signed the application to the Secretary of State and such municipality does not notify the Secretary of State of the appointment of a commissioner within 60 days after receipt of such notice, such municipality shall be deemed to have elected not to be a member of the joint municipal assistance agency. As soon as practicable after the expiration of such 60-day period, the Secretary of State shall issue a new certificate of incorporation, if necessary, setting forth the names of those municipalities which have elected to become members of the joint municipal assistance agency. The failure of any proposed member to become a member shall not affect the validity of the corporate existence of the joint municipal assistance agency.

(b) After the creation of a joint municipal assistance agency, any other municipality may become a member thereof upon application to such joint municipal assistance agency after the adoption of a resolution or ordinance by the governing board of the municipality setting forth the determination and finding prescribed above for the original members and authorizing said municipality to become a member and appointing a commissioner, and with the consent of a majority of the board of commissioners of the joint municipal assistance agency. Any municipality may withdraw from a joint municipal assistance agency, provided, however, that all obligations incurred by a municipality while it was a member shall remain in full force and effect. Notice that a municipality has been added to or withdrawn from membership in the joint municipal assistance agency shall be filed with the Secretary of State, and the Secretary of State shall thereupon issue a new or supplemental certificate of incorporation setting forth the names of all members of the joint municipal assistance agency. Additions of new members or withdrawal of members shall not affect the validity of the corporate existence of the joint municipal assistance agency.

(c) The joint municipal assistance agency shall be governed by a board of commissioners appointed as provided in subsection (a) above by the respective governing boards of the municipalities which are members of the joint

municipal assistance agency. It shall not be necessary to notify the Secretary of State of the appointment of any commissioners following the notifications referred to in subsections (a) and (b) above. Each commissioner shall have one vote and shall serve at the pleasure of the governing board by which he was appointed. Each appointed commissioner before entering upon his duties shall take and subscribe to an oath before some person authorized by law to administer oaths to execute the duties of his office faithfully and impartially, and a record of each such oath shall be filed with the governing board of the appointing municipality and spread upon its minutes. The governing boards of the municipalities may appoint one alternate commissioner to act in lieu of its appointed commissioner when the appointed commissioner is unable for any reason to attend meetings of the board of commissioners or any committee thereof. Each alternate commissioner shall serve at the pleasure of the governing board by which he is appointed and shall take, subscribe to and file an oath in the same manner as prescribed for regularly appointed commissioners. Such alternate commissioner when acting in lieu of the regularly appointed commissioner shall be deemed to be the commissioner representing such municipality, and shall have the rights, powers and authority of the regularly appointed commissioner, other than such commissioner's position as an officer, director or member of the executive committee. All powers, functions, rights and privileges of the joint municipal assistance agency shall be exercised or delegated by the board of commissioners.

(d) The board of commissioners of the joint municipal assistance agency shall annually elect one of the commissioners as president, another as vice president, and another person or persons, who may but need not be commissioners, as treasurer, secretary, and, if desired, assistant secretary or secretaries and assistant treasurer. The office of treasurer or assistant treasurer may be held by the secretary or any assistant secretary. The board of commissioners may also appoint and prescribe the duties of such additional officers as it deems necessary. The secretary or any assistant secretary of the joint municipal assistance agency shall keep a record of the proceedings of the joint municipal assistance agency, and the secretary shall be the custodian of all records, books, documents and papers filed with the joint municipal assistance agency, the minute book or journal of the joint municipal assistance agency and its official seal. Either the secretary or any assistant secretary of the joint municipal assistance agency may cause copies to be made of all minutes and other records and documents of the joint municipal assistance agency and may give certificates under the official seal of the joint municipal assistance agency to the effect that such copies are true copies, and all persons dealing with the joint municipal assistance agency may rely upon such certificates.

(e) Fifty-one percent (51%) of the commissioners of a joint municipal assistance agency then in office shall constitute a quorum, and the commissioners may by written consent executed before or after any meeting waive notice and all other formalities incident to the calling or conduct of the same. Meetings of the commissioners may be held at any place within the State or any state contiguous to the State. A vacancy in the board of commissioners of the joint municipal assistance agency shall not impair the right of a quorum to exercise all the rights and perform all the duties of the joint municipal assistance agency. Any action taken by the joint municipal assistance agency under the provisions of this Chapter may be authorized by resolution at any

regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted. Except as specifically provided by the bylaws, a majority of the votes of the commissioners present shall be necessary and sufficient to take any action or to pass any resolution.

(f) The board of commissioners of the joint municipal assistance agency may, in its bylaws, provide for a board of directors of the joint municipal assistance agency to be selected from the commissioners and alternate commissioners. The board of directors shall have and exercise such of the powers and authority of the board of commissioners during the intervals between the board of commissioners' meetings as shall be prescribed in the bylaws, rules, motions and resolutions of the board of commissioners. The terms of office of the members of the board of directors and the method of filling vacancies therein shall be fixed by the bylaws of the board of commissioners of the joint municipal assistance agency. The bylaws of the joint municipal assistance agency shall provide that the officers of the board of commissioners elected pursuant to subsection (d) of this section must also serve on the board of directors and hold the same offices thereon.

(g) The board of commissioners may also provide, in its bylaws or otherwise, that the board of directors shall create an executive committee of the board of directors composed of the officers of the board of directors, together with such other members of the board of directors as may be prescribed and that such executive committee shall have and shall exercise such of the powers and authority of the board of directors during the intervals between that board's meetings as shall be prescribed in the bylaws of the joint municipal assistance agency or in the rules or resolutions of the board of directors.

(h) The board of commissioners, board of directors and executive committee may provide or adopt methods and procedures consistent with other applicable laws for the calling or conducting of meetings or the taking of any action.

(i) No commissioner or director of a joint municipal assistance agency shall receive any compensation for the performance of his or her duties hereunder, provided, however, that each commissioner and director may be paid his or her necessary expenses incurred while engaged in the performance of such duties.

"§ 159B-38. *General powers of joint municipal assistance agencies and municipalities.*—Each joint municipal assistance agency shall have all of the rights and powers necessary or convenient to carry out and effectuate the purposes and provisions of this Article, including, but without limiting the generality of the foregoing, the rights and powers:

(1) To establish and from time to time modify a schedule of dues and assessments and to provide that the payment thereof when due shall be prerequisite to voting at any meeting and participation in and enjoyment of rights or benefits of the joint municipal assistance agency;

(2) To appropriate for the purposes of the joint municipal assistance agency the funds derived from dues and assessments, and from any other source;

(3) To provide aid and assistance to any one or more municipalities, and to act for or on behalf of any one or more municipalities, in any activity related to the construction, ownership, maintenance, expansion or operation of an electric system, upon such terms, conditions and considerations as may be agreed to between the municipalities and the joint municipal assistance agency;

(4) To provide aid and assistance to any one or more joint agencies, and to act for or on behalf of any one or more joint agencies in the exercise of any power,

function, right, privilege or immunity granted by Article 2 of this Chapter, upon such terms, conditions and considerations as may be agreed to between the joint agency and the joint municipal assistance agency;

(5) To provide property and services to any one or more municipalities or joint agencies upon such terms, conditions and considerations as may be agreed to between the municipalities or joint agency and the joint municipal assistance agency;

(6) To adopt bylaws for the regulation of the affairs and the conduct of its business, and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(7) To adopt an official seal and alter the same at pleasure;

(8) To acquire and maintain an administrative building or office at such place or places as it may determine, which building or office may be used or owned together with any joint agency or agencies, municipalities, corporations, associations or persons under such terms and provisions for sharing costs and otherwise as may be determined;

(9) To sue and be sued in its own name, and to plead and be impleaded;

(10) To receive, administer and comply with the conditions and requirements respecting any gift, grant or donation of any property or money;

(11) To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, including an interest in land less than the fee thereof;

(12) To sell, lease, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein; provided, however, that property acquired by a joint municipal assistance agency from a municipality without consideration or for a consideration other than the fair market value thereof as determined by the governing board of the municipality may only be disposed of in accordance with the procedures set forth in Article 12 of Chapter 160A of the General Statutes;

(13) To make and execute contracts for a period not exceeding three years and other instruments necessary or convenient in the exercise of the powers and functions of the joint municipal assistance agency, including contracts with municipalities, joint agencies, persons, firms, corporations and others, provided, however, that such contracts shall not unreasonably preclude the municipality or joint agency from contracting with other parties in order to achieve economy, adequacy and reliability in the operation of their electric systems;

(14) To employ engineers, architects, attorneys, real estate counselors, appraisers, financial advisors and such other consultants and employees as may be required in the judgment of the joint municipal assistance agency and to fix and pay their compensation from funds available to the joint municipal assistance agency therefor; and

(15) To do all acts and things necessary, convenient or desirable to carry out the purposes, and to exercise the powers granted to the joint municipal assistance agency herein.

Any municipality or joint agency is authorized to appropriate and pay funds to a joint municipal assistance agency and to enter into contracts or arrangements with a joint municipal assistance agency for the purposes and in the execution of the functions and powers of the municipality or joint agency.

Joint municipal assistance agencies shall comply with Article 8 of Chapter 143 of the General Statutes respecting acquisition or construction of property to

the same extent required of municipalities; provided, however, that Article 8 of Chapter 143 of the General Statutes shall not apply to a municipality, joint municipal assistance agency or joint agency in transactions between a joint municipal assistance agency and a municipality or joint agency involving the transfer or construction of property.

Property owned by a joint municipal assistance agency or jointly owned by municipalities or joint agencies and joint municipal assistance agencies shall be exempt from property taxes; provided, however, that each joint municipal assistance agency shall, in lieu of property taxes, pay to any governmental agency authorized to levy property taxes the amount which would be assessed as taxes on real and personal property of such agency if such property were otherwise subject to valuation and assessment by the Department of Revenue. Such payments in lieu of taxes shall be due and shall bear interest if unpaid, as in the cases of taxes on other property. Payments in lieu of taxes made hereunder shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

"§ 159B-39. *Dissolution.*—Whenever the governing board of a joint municipal assistance agency and the governing boards of its member municipalities shall by resolution or ordinance determine that the purposes for which the joint municipal assistance agency was formed have been substantially fulfilled and that all obligations incurred by the joint municipal assistance agency have been fully paid or satisfied, such governing boards may declare the joint municipal assistance agency be dissolved. On the effective date of such resolution or ordinance, the title to all funds and other property owned by the joint municipal assistance agency at the time of such dissolution shall vest in the members of the joint municipal assistance agency as provided in this Chapter and the bylaws of the joint municipal assistance agency. Notice of such dissolution shall be filed with the Secretary of State.

"§ 159B-40. *Reports, liability, and personnel.*—(a) Each joint municipal assistance agency shall, following the closing of each fiscal year, submit an annual report of its activities for the preceding year to the governing boards of its members. Each such report shall set forth an operating and financial statement covering the operations of the joint municipal assistance agency during such year. The joint municipal assistance agency shall cause an audit of its books of record and accounts to be made at least once in each year by independent certified public accountants.

(b) No commissioner, alternate commissioner or director or officer of any joint municipal assistance agency or officer of any municipality or person or persons acting in their behalf, while acting within the scope of his authority, shall be subject to any personal liability or accountability by reason of his carrying out any of the powers expressly or impliedly given in this Article.

(c) Each municipality, joint agency and joint municipal assistance agency shall be severally liable for its own acts or omissions and not jointly or severally liable for the acts, omissions, or obligations of others, including other municipalities.

(d) In no event shall any municipality or joint agency be liable or responsible for any acts, omissions or obligations of any joint municipal assistance agency or any of its officers, employees or agents; provided, however, that contracts between the joint municipal assistance agency and one or more municipalities or one or more joint agencies may expressly provide for the imputation of or

indemnification for any liability of one party thereto by the other, or for the assumption of any obligation of one party thereto by the other.

(e) Personnel employed or appointed by a municipality and performing services for or on behalf of a joint municipal assistance agency shall have the same authority, rights, privileges and immunities (including coverage under the workmen's compensation laws) which the officers, agents and employees of the appointing municipality enjoy within the territory of that municipality, whether within or without the territory of the appointing municipality, when they are acting within the scope of their authority or in the course of their employment.

(f) Personnel employed or appointed by a joint municipal assistance agency shall be qualified for participation in the North Carolina Local Government Employees' Retirement System with the same rights, privileges, obligations and responsibilities as they would have if they were employees of a municipality.

(g) The offices of commissioner, alternate commissioner, officer, director and member of the executive committee of a joint municipal assistance agency are hereby declared to be offices which may be held by the holder of any office, place of trust or profit in addition to and concurrently with those offices permitted by G.S. 128-1.1 and other offices permitted by other General Statute."

Sec. 8. G.S. 159B-36 is recodified as G.S. 159B-41.

Sec. 9. G.S. 128-1 is amended by changing the period at the end of the sentence to a comma and then adding the following words:

"or by other General Statute."

Sec. 10. The title of Part 6 of Article 3 of Chapter 159 of the General Statutes is amended to read:

"Joint Municipal Power Agencies and Joint Municipal Assistance Agencies."

Sec. 11. If any portion of this act is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remainder of the act.

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 970 CHAPTER 610

AN ACT REGARDING SUSPENSION OF A DRIVER'S LICENSE FOR FAILURE TO MAINTAIN THE REQUIRED SECURITY OR INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-279.7(3) is amended by deleting all the language following the first semicolon and substituting the following:

"provided, if there is a default in the payment of any installment or sum under a duly acknowledged written agreement, the Commissioner shall, upon notice of the default, immediately suspend the license or nonresident's operating privilege of the defaulting person and may not restore it until:

a. That person deposits and thereafter maintains security as required under G.S. 20-279.5 in an amount determined by the Commissioner; or

b. That person files evidence satisfactory to the Commissioner of a new duly acknowledged written agreement or a settlement."

Sec. 2. G.S. 20-279.31 is amended by relettering subsection (d) as (e) and adding a new subsection (d) to read:

"(d) Any person who makes a false affidavit or knowingly swears or affirms falsely to any matter under G.S. 20-279.5, 20-279.6, or 20-279.7 is guilty of perjury and shall be punished as provided in G.S. 14-209."

Sec. 3. The Division of Motor Vehicles shall print on all forms provided to drivers covered by G.S. 20-279.5, 20-279.6, or 20-279.7 that a false affidavit or falsely sworn or affirmed statement constitutes perjury and may be punished by imprisonment for up to 10 years or a fine or both.

Sec. 4. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 995 CHAPTER 611

AN ACT TO GRANT CERTAIN DOMICILIARY CARE FACILITIES AN EXEMPTION FROM REPORTING AND UNIFORM CHART OF ACCOUNTS REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131D-3 is amended in the fourth sentence by inserting immediately after the phrase "for five beds or less" the phrase ", facilities that are operated by or under contract with Area Mental Health, Mental Retardation and Substance Abuse Authority,".

Sec. 2. G.S. 131D-4 is amended in the fourth sentence by inserting immediately after the phrase "for five beds or less" the phrase ", facilities that are operated by or under contract with Area Mental Health, Mental Retardation and Substance Abuse Authority,".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 1075 CHAPTER 612

AN ACT TO PROVIDE MORE RULEMAKING FLEXIBILITY FOR THE CHILD DAY-CARE LICENSING COMMISSION AND TO REGULATE TEMPORARY CHILD DAY-CARE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-91 is amended by rewriting the second sentence of the opening paragraph as follows:

"These shall be the only required standards for the issuance of a license by the Secretary of Administration under the policies and procedures of the Commission except that the Commission may, in its discretion, adopt less stringent standards for facilities subject to licensing but which provide care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time basis."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 1144 CHAPTER 613

AN ACT TO ABOLISH ALL GROUNDS FOR ABSOLUTE DIVORCE EXCEPT SEPARATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-5 and each subsection thereof is hereby repealed, except for subsection (6) thereof, which shall be recodified as G.S. 50-5.1 with the title "Grounds for absolute divorce in cases of incurable insanity".

Sec. 2. G.S. 50-6 is rewritten by deleting the second sentence, and by deleting the letters, numbers and word "G.S. 50-5 or" in the seventh line thereof.

Sec. 3. This act shall become effective October 1, 1983, and shall not apply to pending litigation.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 1147 CHAPTER 614

AN ACT TO INCREASE THE VALUE OF WORK THAT MAY BE DONE WITHOUT A BUILDING PERMIT FOR SMALL JOBS.

The General Assembly of North Carolina enacts:

Section 1. The next to the last sentence of G.S. 160A-417 is amended by deleting "twenty-five hundred dollars ($2500)" and substituting "five thousand dollars ($5,000)".

Sec. 2. The next to the last sentence of G.S. 153A-357 is amended by deleting "twenty-five hundred dollars ($2500)" and substituting "five thousand dollars ($5,000)".

Sec. 3. The fourth paragraph of G.S. 143-138(b) is amended by deleting "twenty-five hundred dollars ($2500)" and substituting "five thousand dollars ($5,000)".

Sec. 4. A county may by ordinance require that when a property owner improves property at a cost of more than twenty-five hundred dollars ($2500) but less than five thousand dollars ($5,000), the property owner must, within 14 days after the completion of the work, submit to the County Tax Supervisor a statement setting forth the nature of the improvement and the total cost thereof.

Sec. 5. This act shall not apply to Wilson, Nash and Edgecombe Counties.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 1198

CHAPTER 615

AN ACT TO REGULATE THE TAKING OF EXOTIC SPECIES OF WILD ANIMALS AND BIRDS OR SPECIES NOT INDIGENOUS TO THE AREA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-292 is amended by adding a new subsection to read:

"(e) It is unlawful for any person to:

(1) Release or place exotic species of wild animals or wild birds in an area for the purpose of stocking the area for hunting or trapping;

(2) Release or place species of wild animals or wild birds not indigenous to that area in an area for the purpose of stocking the area for hunting or trapping;

(3) Take by hunting or trapping any animal or bird released or placed in an area in contravention of subdivisions (1) and (2) of this subsection, except under a permit to hunt or trap which may be issued by the Wildlife Resources Commission for the purpose of eradicating or controlling the population of any species of wildlife that has been so released or placed in the area."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 1231

CHAPTER 616

AN ACT TO AMEND G.S. 136-44.20 TO PROVIDE FOR MATCHING FUNDS FOR INTER-CITY RAIL AND BUS PASSENGER SERVICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-44.20 is hereby rewritten to read:

"§ 136-44.20. *Department of Transportation designated agency to administer and fund public transportation programs; authority of political subdivisions.*—(a) The Department of Transportation is hereby designated as the agency of the State of North Carolina responsible for administering all federal and/or State programs relating to public transportation; and the Department is hereby granted authority to do all things required under applicable federal and/or State legislation to administer properly public transportation programs within North Carolina. Such authority shall include, but shall not be limited to, the power to receive federal funds and distribute federal and State financial assistance for inter-city rail or bus passenger service crossing one or more county lines.

(b) The Department of Transportation, upon approval by the Board of Transportation, is authorized to provide the matching share of federal public transportation assistance programs through private resources, local government funds, or State appropriations provided by the General Assembly.

(c) Nothing herein shall be construed to prevent a political subdivision of the State of North Carolina from applying for and receiving direct assistance from the United States government under the provisions of any applicable legislation."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

H. B. 1254 CHAPTER 617

AN ACT TO CHANGE THE DATE ON WHICH MEMBERS OF COUNTY BOARDS OF ELECTIONS, REGISTRARS AND JUDGES OF ELECTIONS ARE APPOINTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-30 is amended by deleting in the first paragraph "Tuesday following the first Monday in June, 1975" and inserting in lieu thereof: "last Tuesday in June 1985,".

Sec. 2. G.S. 163-30 is amended by deleting in the sixth paragraph "Tuesday following the first Monday in June 1975" and inserting in lieu thereof: "last Tuesday in June 1985,".

Sec. 3. G.S. 163-31 is amended by deleting in the first sentence of the first paragraph "Tuesday following the third Monday in June" and inserting in lieu thereof: "Tuesday following the third Monday in July" and by deleting in the second sentence "first Monday in August" and substituting in lieu thereof: "third Monday in August".

Sec. 4. G.S. 163-42 is amended by deleting in the second sentence of the second paragraph "before the seventh Saturday before the primary is to be held" and substituting in lieu thereof: "no later than the seventh day prior to the date the appointments are to be made pursuant to G.S. 163-31".

Sec. 5. G.S. 163-41(a) is amended in the first sentence by deleting the word "first" and substituting "third".

Sec. 6. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

S. B. 550 CHAPTER 618

AN ACT TO INCLUDE A WOMAN LAW ENFORCEMENT OFFICER ON THE CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 17C-3(a) is amended by deleting the number "25" and substituting the number "22".

Sec. 2. G.S. 17C-3(a)(4) is amended by inserting between the phrase "Association;" and the phrase "and one district attorney" the phrase "one sworn woman law enforcement officer selected by the North Carolina Law Enforcement Womens' Association;".

Sec. 3. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

S. B. 511 **CHAPTER 619**

AN ACT TO AUTHORIZE REVIEW BY THE MARINE FISHERIES COMMISSION OF PROCLAMATIONS ISSUED BY THE SECRETARY OF THE NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-221 is amended by adding a new paragraph (e1) after (e) to read:

"(e1) Pursuant to the request of five or more members of the Marine Fisheries Commission, its chairman may call an emergency meeting of the Commission to review: (1) a proposed issuance or issuance of proclamations under the authority delegated to the Secretary pursuant to (e) of this section, except those proclamations issued for reasons of public health; or (2) the need to issue a proclamation to allow the taking of certain fisheries resources in areas not opened through proclamations issued by the Secretary. At least 48 hours prior to any such meeting, a public announcement of the meeting shall be issued that describes the action requested by the members of the Commission; and the Department must make every reasonable effort to give actual notice of the meeting to persons who may be affected thereby. After its review is complete, the Marine Fisheries Commission, consistent with its duty to protect, preserve, and enhance the commercial and sports fisheries resources of the State, may (1) approve, cancel, or modify the proposed proclamation or issued proclamation under review; or (2) direct the Secretary to issue a proclamation that allows the taking of certain fisheries resources.

The variable conditions that affect such resource management decisions require that these emergency meetings and any resulting orders by the Commission be exempt from the provisions of Articles 2 and 3 of Chapter 150A. The decisions of the Marine Fisheries Commission shall be the final decision of the State and shall not be set aside on judicial review unless found to be arbitrary and capricious."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

S. B. 525 **CHAPTER 620**

AN ACT TO ALLOW AREAS CLOSED FOR REASONS OF POLLUTION BY THE DIVISION OF MARINE FISHERIES TO BE REOPENED MORE QUICKLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-221(e) is amended by adding after the fourth sentence the following sentence:

"Notwithstanding any other provisions of this paragraph, a proclamation can be issued at least 12 hours in advance of the effective date and time to reopen the taking of certain fisheries resources closed for reason of public health through a prior proclamation made effective immediately upon issuance."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

S. B. 579 **CHAPTER 621**

AN ACT TO REVISE THE LEASE PROVISIONS PERTAINING TO CULTIVATION OF OYSTERS AND CLAMS.

The General Assembly of North Carolina enacts:

Section 1. The title of Article 16 of Chapter 113 is amended to read: "Cultivation of Shellfish".

Sec. 2. G.S. 113-201 is amended by deleting the words "oysters and clams" and substituting the word "shellfish".

Sec. 3. Article 16 of Chapter 113 of the General Statutes is amended to add a new section, G.S. 113-201.1, as follows:

"§ 113-201.1. *Definitions.*—As used in this Article:

(1) 'Natural shellfish bed' means an area of public bottom where oysters, clams, scallops, mussels or other shellfish are found to be growing in sufficient quantities to be valuable to the public.

(2) 'Riparian owner' means the holder(s) of the fee title to land that is bordered by waters of an arm of the sea or any other navigable body of water.

(3) 'Shellfish' means oysters, clams, scallops, mussels or any other species of mollusks that the Marine Fisheries Commission determines suitable for cultivation, harvesting, and marketing from public grounds and private beds.

(4) 'Single family unit' means the husband and wife and any unemancipated children in the household."

Sec. 4. G.S. 113-202(a) is rewritten to read:

"(a) To increase the use of suitable areas underlying coastal fishing waters for the production of shellfish, the Marine Fisheries Commission may grant shellfish cultivation leases to persons who reside in North Carolina under the terms of this section when it determines the public interest will benefit from issuance of the lease. Suitable areas for the production of shellfish shall meet the following minimum standards:

(1) The area leased must be suitable for the cultivation and harvesting of shellfish in commercial quantities.

(2) The area leased must not contain a natural shellfish bed.

(3) Cultivation of shellfish in the leased area will be compatible with lawful utilization by the public of other marine and estuarine resources. Other public uses which may be considered include, but are not limited to, navigation, fishing and recreation.

(4) Cultivation of shellfish in the leased area will not impinge upon the rights of riparian owners.

(5) The area leased must not include an area designated for inclusion in the Department's Shellfish Management Program.

(6) The area leased must not include an area which the Department of Human Resources has recommended be closed to shellfish harvest by reason of pollution."

Sec. 5. G.S. 113-202(b) is rewritten to read as follows:

"(b) The Marine Fisheries Commission may delete any part of an area proposed for lease or may condition a lease to protect the public interest with respect to the factors enumerated in subsection (a) of this section."

Sec. 6. G.S. 113-202(c) is rewritten to read as follows:

"(c) No person, including a corporate entity, or single family unit may acquire and hold by lease, lease renewal, or purchase more than 50 acres of public bottoms under shellfish cultivation leases."

Sec. 7. G.S. 113-202(d), (e), (f), (g), (l) (m) and (o) are amended by deleting the word "survey" wherever it appears and substituting "map or diagram" and by deleting the words "oyster and clam", "oysters and clams", "oysters or clams", and "oyster or clam" wherever those words appear and substituting "shellfish".

Sec. 8. G.S. 113-202(d) is amended by rewriting the third and fourth sentences in the second paragraph to read:

"The investigation is to be made by the Secretary or his authorized agent to determine whether the area proposed to be leased is consistent with the standards in subsection (a) and any other applicable standards under this Article and the regulations of the Marine Fisheries Commission. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall recommend that the application be denied or that a conditional lease be issued which is consistent with the applicable standards."

Sec. 9. G.S. 113-202(h) is amended to read:

"(h) The Marine Fisheries Commission in its discretion may lease or decline to lease public bottoms for shellfish culture in accordance with its duty to conserve the marine and estuarine resources of the State. The Secretary must present all lease applications to the Marine Fisheries Commission as to which he has published a notice of intention to lease more than 20 days prior to the meeting of the Marine Fisheries Commission.

The Secretary shall notify the Marine Fisheries Commission of any protest which has been filed and present an evaluation of the protest. The Marine Fisheries Commission shall determine all lease applications during its public meetings and, during its review of the lease applications, shall allow any member of the public an opportunity to comment on any lease application under consideration by the Marine Fisheries Commission. The Marine Fisheries Commission may impose special conditions on leases so that leases may be issued which would otherwise be denied."

Sec. 10. G.S. 113-202(i) is amended to read:

"(i) After a lease application is approved by the Marine Fisheries Commission, the applicant shall submit to the Secretary a survey of the area approved for leasing and define the bounds of the area approved for leasing with markers in accordance with the regulations of the Commission. The survey shall conform to standards prescribed by the Secretary concerning accuracy of survey and the amount of detail to be shown. When an acceptable survey is submitted, the boundaries are marked and all fees and rents due in advance are paid, the Secretary shall execute the lease on forms approved by the Attorney General. If the applicant and the Secretary are unable to agree that the area approved for lease is that shown in the survey, the Secretary shall report the matter with reasonable dispatch to the Marine Fisheries Commission for resolution. The Secretary is authorized, with the approval of the lessee, to amend an existing lease by reducing the area under lease or by combining contiguous leases without increasing the total area leased."

Sec. 11. G.S. 113-202(k) is amended by substituting "30" for "15" in the third sentence.

Sec. 12. G.S. 113-202(l)(2) is amended by an addition at the end to read:

"or filing false information on the form required to accompany the annual remittance of rental."

Sec. 13. G.S. 113-202(m) is amended to read:

"(m) In the event the leaseholder takes steps within 30 days to remedy the situation upon which the notice of intention to terminate was based and the Secretary is satisfied that continuation of the lease is in the best interests of the shellfish culture of the State, the Secretary may discontinue termination procedures. Where there is no discontinuance of termination procedures, the leaseholder may appeal to the Marine Fisheries Commission. Where there is no appeal, or where an appeal does not prevail, the Secretary must send a final letter of termination to the leaseholder. The final letter of termination may not be mailed sooner than 30 days after receipt by the leaseholder of the Secretary's notice of intention to terminate. The lease is terminated effective at midnight on the day the final notice of termination is served on the leaseholder. The final notice of termination may not be issued pending hearing of any appeal by the Marine Fisheries Commission."

Sec. 14. G.S. 113-202(m) is further amended by an addition at the end to read:

"Service of any notice required in this subsection may be accomplished by certified mail, return receipt requested; personal service by any law enforcement officer; or upon the failure of these two methods, publication. Service by publication shall be accomplished by publishing such notices in a newspaper of general circulation within the county where the lease is located for at least once a week for three successive weeks. The format for notice by publication shall be approved by the Attorney General."

Sec. 15. G.S. 113-202(o) is amended by deleting from the first sentence the language "and the names and addresses of those to whom the harvest was sold or delivered" and inserting the word "and" between the words "year" and "the".

Sec. 16. G.S. 113-202(q) is repealed.

Sec. 17. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.

S. B. 307 CHAPTER 622

AN ACT TO AMEND THE STATUTE PROVIDING AN ANNUAL FEE FOR EMERGENCY PLANNING FOR EACH FIXED NUCLEAR FACILITY WITHIN THE STATE OF NORTH CAROLINA TO INCLUDE SUCH FEE FOR ANY FACILITY WITH A PLUME EXPOSURE PATHWAY EMERGENCY PLANNING ZONE WHICH EXTENDS INTO THIS STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 166A-6.1(a), as the same is found in Part 11 of Volume 3D of the General Statutes, 1982 Replacement, is amended by rewriting lines 5 through 9 to read "($30,000) for each fixed nuclear facility which is located within this State or has a Plume Exposure Pathway Emergency Planning Zone of which any part is located within this State. This fee is to be used to assist in or partially defray such costs of planning and implementing emergency response

activities as are required by the Federal Emergency Management Agency for the operation of nuclear facilities. Said fee is to be paid no later than July 31 of each year. This minimum fee may be."

Sec. 2. G.S. 166A-6.1, as the same is found in Part II of Volume 3D of the General Statutes, 1982 Replacement, is amended by inserting a new subsection (b) to read as follows:

"(b) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the State of North Carolina for use of the Department of Human Resources an annual fee of no more than twelve thousand dollars ($12,000) for each fixed nuclear facility which is located within this State or has a Plume Exposure Pathway Emergency Planning Zone of which any part is located within this State. This fee is to be used to assist in or partially defray such costs of planning and implementing emergency response activities as are required by the Federal Emergency Management Agency for the operation of nuclear facilities. Said fee is to be paid no later than July 31 of each year. The amount of the fee for use by the Department of Human Resources shall be determined by such Department. The fee will be referred to the Department of Crime Control and Public Safety for collection."

Sec. 3. G.S. 166A-6.1(b), as the same is found in Part 11 to Volume 3D of the General Statutes, 1982 Replacement, is rewritten to read as follows:

"(c) Licensees or operators of fixed nuclear facilities are required to pay the fees required by this section for the first year on or before November 1, 1981, and for succeeding years on or before July 31 of each year. In the event that any funds collected for the purposes set forth herein are unexpended at the end of the fiscal year, such funds shall be brought forward to the next fiscal year thereby proportionally reducing the fee to be assessed each fixed nuclear facility in such next fiscal year."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1983.

H. B. 38 CHAPTER 623

AN ACT TO REWRITE AND REPEAL CERTAIN CRIMINAL STATUTES REGARDING CONTRACTS BETWEEN LANDLORDS AND TENANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-358 is amended by deleting the word and comma "Chatham," in the third sentence thereof.

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 27th day of June, 1983.

H. B. 658 **CHAPTER 624**

AN ACT TO PROTECT RENTERS OF APARTMENT BUILDINGS BEING CONVERTED TO CONDOMINIUMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 47A of the General Statutes is hereby amended by designating the existing provision as Article 1 and by adding a new Article to read as follows:

"ARTICLE 2.

"Renters in Conversion Buildings Protected.

"§ 47A-33. *Definitions.*—The definitions set out in G.S. 47A-3 also apply to this Article. As used in this Article, unless the context requires otherwise, the term:

(1) 'Conversion building' means a building that at any time before creation of the condominium was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(2) 'Declarant' means any person or group of persons acting in concert who, as part of a common promotional plan, offers to dispose of his or its interest in a unit not previously disposed of.

(3) 'Dispose' or 'disposition' means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest.

(4) 'Offering' means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation.

(5) 'Residential purposes' means use for dwelling or recreational purposes, or both.

"§ 47A-34. *Offering statement.*—An offering statement must contain or fully and accurately disclose:

(1) The name and principal address of the declarant;

(2) A general description of the condominium including, to the extent possible, a listing of any improvements and amenities that declarant anticipates including in the condominium, and declarant's schedule of completion of construction on buildings;

(3) The terms and significant limitations of any warranties provided by the declarant; and

(4) Any other information made available to the general public in connection with the offering.

"§ 47A-35. *Time to vacate; Right of first refusal to purchase.*—(a) A declarant of a condominium containing conversion buildings, and any person in the business of selling real estate for his own account who intends to offer units in such a condominium, shall provide each of the residential tenants and any residential subtenant in possession of a portion of a conversion building notice of the conversion as well as an offering statement as provided in G.S. 47A-34 no later than 90 days before the tenant or subtenant are required to vacate. The notice shall set forth generally the rights of tenants and subtenants under this section and section (b) of G.S. 47A-35. This notice shall be hand-delivered to the unit or mailed by prepaid United States mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required to vacate upon less than 90 days' notice,

except by reason of nonpayment of rent, waste, conduct that disturbs other tenants' peaceful enjoyment of the premises or breach of lease giving rise to the right of repossession of the unit by the declarant, and the terms of the tenancy may not be altered during that period. Failure to give notice as required by this section is a defense to an action for possession.

(b) For 30 days after the delivery of the notice described in subsection (a), the person required to give the notice shall offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. The tenant can accept an offer under this section by entering into an agreement to purchase within the 30-day period. The tenant shall be allowed a 30-day period after acceptance in which to complete a purchase transaction. This subsection does not apply to any unit in a conversion building if that unit will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

(c) If a declarant, in violation of subsection (b), conveys a unit to a purchaser, recordation of the deed conveying the unit extinguishes any right a tenant may have under subsection (b) to purchase that unit, but does not affect any other right of a tenant.

"§ 47A-36. *Applicability.*—This Article applies to condominiums of five or more units created on or after January 1, 1984."

Sec. 2. Article 1 of Chapter 47A of the General Statutes, as designated by this act, is amended by deleting the word "Chapter" each time it appears and inserting in lieu thereof the word "Article".

Sec. 3. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 27th day of June, 1983.

H. B. 737 CHAPTER 625

AN ACT TO AMEND THE EMPLOYMENT SECURITY LAW TO ASSURE FEDERAL COMPLIANCE AND OTHER TECHNICAL AMENDMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-12(e)A.(4)a. is amended by deleting the words "13 weeks" and substituting "13-week period ending in each of the preceding two calendar years,".

Sec. 2. The last sentence of G.S. 96-13(a)(3) is rewritten to read:

"The Commission may approve such training course for an individual only if:

1. a. Reasonable employment opportunities for which the individual is fitted by training and experience do not exist in the locality or are severely curtailed;
   b. The training course relates to an occupation or skill for which there are expected to be reasonable opportunities for employment; and
   c. The individual, within the judgment of the Commission, has the required qualifications and the aptitude to complete the course successfully; or,
2. Such approval is required for the Commission to receive the benefits of federal law."

Sec. 3. G.S. 96-13(a) is amended by adding a new subsection to read:

"(4) No individual shall be deemed able to work under this subsection during any week for which that person is receiving or is applying for benefits under any other State or federal law based on his temporary total or permanent total disability."

Sec. 4. G.S. 96-13(b)(1) is rewritten to read:

"The payment of benefits to any individual based on services for nonprofit organizations, hospitals, State hospitals and State institutions of higher education, other institutions of higher education, or secondary schools and subdivisions of secondary schools subject to this Chapter shall be in the same manner and under the same conditions of the laws of this Chapter as applied to individuals whose benefit rights are based on other services subject to this Chapter. Except that with respect to services in the educational institutions listed above, benefits shall not be payable based on such services for any week commencing during the period between two successive academic years, or during a similar period between two regular terms, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts, written, oral or implied, or a reasonable assurance to perform services in any such capacity for such educational institution for both such academic years or both such terms. Provided that if compensation is denied to any individual for any week under the foregoing sentence and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of the foregoing sentence. The provisions of this subsection relating to the denial of benefits for any week of unemployment commencing during the period between two successive academic years or during a similar period between two regular terms shall apply to an individual who performs services on a part-time or substitute basis."

Sec. 5. G.S. 96-13(b)(2) is repealed.

Sec. 6. G.S. 96-14 is amended by adding a new sentence at the end of subsection (2) to read:

"Misconduct connected with the work is defined as conduct evincing such wilful or wanton disregard of an employer's interest as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer.", and further by adding a new subsection after subsection (2) to read: "(2A) For a period of not less than four nor more than 13 weeks beginning with the first day of the first week during which or after the disqualifying act occurs with respect to which week an individual files a claim for benefits if it is determined by the Commission that such individual is, at the time the claim is filed, unemployed because he was discharged for substantial fault on his part connected with his work not rising to the level of misconduct. Substantial fault is defined to include those acts or omissions of employees over which they exercised reasonable control and which violate reasonable requirements of the job but shall not include (1) minor infractions of rules unless such infractions are repeated after a warning was

received by the employee, (2) nonintentional mistakes made by the employee, nor (3) failures to perform work because of insufficient skill, ability, or equipment. Upon a finding of discharge under this subsection, the individual shall be disqualified for a period of nine weeks unless, based on findings by the Commission of aggravating or mitigating circumstances, the period of disqualification is lengthened or shortened within the limits set out above. The length of the disqualification so set by the Commission shall not be disturbed by a reviewing court except upon a finding of plain error."

Sec. 7. The last sentence of G.S. 96-12(e)C.2 is amended by adding the words "or substantial fault" after the words "discharged for misconduct".

Sec. 8. G.S. 96-14(8) is rewritten to read:

"For any week with respect to which he has received any sum from the employer pursuant to an order of any court, the National Labor Relations Board, any other lawfully constituted adjudicative agency, or by private agreement, consent or arbitration for loss of pay by reason of discharge. When the amount so paid by the employer is in a lump sum and covers a period of more than one week, such amount shall be allocated to the weeks in the period on such a pro rata basis as the Commission may adopt and if the amount so prorated to a particular week would, if it had been earned by the claimant during that week of unemployment, have resulted in a reduced benefit payment as provided in G.S. 96-12, the claimant shall be entitled to receive such reduced payment if the claimant was otherwise eligible."

Sec. 9. The first sentence of G.S. 96-8(13)a. is rewritten to read:

"'Wages' shall include commissions and bonuses and any sums paid to an employee by an employer pursuant to an order of any court, the National Labor Relations Board, any other lawfully constituted adjudicative agency or by private agreement, consent or arbitration for loss of pay by reason of discharge and the cash value of all remuneration in any medium other than cash."

Sec. 10. The first paragraph of G.S. 96-15(b)(1) is rewritten to read:

"Initial Determination. A representative designated by the Commission shall promptly examine the claim and shall determine whether or not the claim is valid. If the claim is determined to be not valid for any reason other than lack of base period earnings, the claim shall be referred to an Adjudicator for a decision as to the issues presented. If the claim is determined to be valid, a monetary determination shall be issued showing the week with respect to when benefits shall commence, the weekly benefit amount payable, and the potential maximum duration thereof. The claimant shall be furnished a copy of such monetary determination showing the amount of wages paid him by each employer during his base period and the employers by whom such wages were paid, his benefit year, weekly benefit amount, and the maximum amount of benefits that may be paid to him for unemployment during the benefit year. When a claim is not valid due to lack of earnings in his base period, the determination shall so designate. The claimant shall be allowed 10 days from the earlier of mailing or delivery of his monetary determination to him within which to protest his monetary determination and upon the filing of such protest, unless said protest be satisfactorily resolved, the claim shall be referred to the Chief Deputy Commissioner or his designee for a decision as to the issues presented. All base period employers, as well as the most recent employer of a claimant on a temporary layoff, shall be notified upon the filing of a claim which establishes a benefit year."

Sec. 11. The fourth sentence of G.S. 96-15(b)(2) is amended by deleting the words "an appeal is initiated" and substituting "a written appeal is filed pursuant to such regulations as the Commission may adopt".

Sec. 12. The third sentence of G.S. 96-15(c) is amended by deleting "further appeal is initiated" and substituting "a written appeal is filed pursuant to such regulations as the Commission may adopt", and further by rewriting the fourth sentence to read: "No person may be appointed as an Appeals Referee unless he possesses the minimum qualifications necessary to be a staff attorney eligible for designation by the Commission as a hearing officer under G.S. 96-4(m)."

Sec. 13. G.S. 96-15(h) is rewritten to read:

"Appeal to Courts. Any decision of the Commission in the absence of an appeal therefrom as herein provided, shall become final 30 days after the date of notification or mailing thereof, whichever is earlier, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission as provided by this Chapter and has filed notice of appeal as hereinafter provided. The Commission shall be deemed to be a party to any judicial action involving any such decision and may be represented in any such judicial action by any qualified attorney who has been designated by it for that purpose. If a notice of appeal is filed, but not in a timely fashion, the court shall dismiss the appeal upon the motion of the Commission. In order to obtain judicial review under this Chapter, the person seeking review must file a petition in the superior court of the county in which the appellant resides or has his principal place of business.

The petition shall explicitly state what exceptions are taken to the decision or procedure of the Commission and what relief the petitioner seeks. Within 10 days after the petition is filed with the court, the person seeking the review shall serve copies of the petition by personal service or by registered mail upon the Commission and upon all who were parties of record to the Commission proceedings. Names and addresses of such parties shall be furnished to the petitioner by the Commission upon request. Any party to the Commission proceeding may become a party to the review proceeding by notifying the court within 10 days after receipt of the copy of the petition. Any person aggrieved may petition to become a party by filing a motion to intervene as provided in G.S. 1A-1, Rule 24.

Within 45 days after receipt of the copy of the petition for review or within such additional time as the court may allow, the Commission shall transmit to the reviewing court the original or a certified copy of the entire record of the proceedings under review. With the permission of the court the record may be shortened by stipulation of all parties to the review proceedings. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for such additional cost as may be occasioned by the refusal. The court may require or permit subsequent corrections or additions to the record when deemed desirable."

Sec. 14. G.S. 96-15(i) is rewritten to read:

"Appeal Proceedings. The decision of the Commission shall be final, subject to judicial review as herein provided. If a timely petition for review has been filed as provided in G.S. 96-15(h), the court shall have power to make party defendant any other party which it may deem necessary or proper to a just and fair determination of the case. The Commission may, in its discretion, certify to

the reviewing court questions of law involved in any decision by it. In any judicial proceeding under this section, the findings of the Commission as to the facts, if there is evidence to support them and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law. Such actions and the questions so certified shall be heard in a summary manner and shall be given precedence over all civil cases. An appeal may be taken from the judgment of the superior court, as provided in civil cases. The Commission shall have the right of appeal to the appellate division from a decision or judgment of the superior court and for such purpose shall be deemed to be an aggrieved party. No bond shall be required of the Commission upon such appeal. Upon the final determination of the case or proceeding, the Commission shall enter an order in accordance with such determination. When an appeal has been entered to any judgment, order, or decision of the court below, no benefits shall be paid pending a final determination of the cause, except in those cases in which the final decision of the Commission allowed benefits."

Sec. 15. G.S. 96-18 is amended be deleting subsections (d) and (f) and by rewriting subsection (g) to read:

"(g)(1) Any person who, under subsection (e) above, has been held ineligible for benefits and who, because of those same acts or omissions has received any sum as benefits under this Chapter to which he was not entitled, shall be liable to repay any such sum to the Commission as provided in subparagraph (3) below, provided such decision under subsection (e) has been made within two years of the last such act or omission.

(2) Any person who has received any sum as benefits under this Chapter by reason of the nondisclosure or misrepresentation by him or by another of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) or has been paid benefits to which he was not entitled for any reason (including errors on the part of any representative of the Commission) other than subparagraph (1) above shall be liable to repay such sum to the Commission as provided in subparagraph (3) below, provided no such recovery or recoupment of such sum may be initiated after three years from the last day of the year in which the overpayment occurred.

(3) The Commission may collect the overpayments provided for in this subsection by one or more of the following procedures as the Commission may, except as provided herein, in its sole discretion choose:

a. If, after due notice, any overpaid claimant shall fail to repay the sums to which he was not entitled, the amount due may be collected by civil action in the name of the Commission, and the cost of such action shall be taxed to the claimant. Civil actions brought under this section to collect overpayments shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this Chapter.

b. If any overpayment recognized by this subsection shall not be repaid within 30 days after the claimant has received notice and demand for same, and after due notice and reasonable opportunity for hearing (if a hearing on the merits of the claim has not already been had) the

Commission, under the hand of its Chairman, may certify the same to the clerk of the superior court of the county in which the claimant resides or has property, and additional copies of said certificate for each county in which the Commission has reason to believe such claimant has property located; such certificate and/or copies thereof so forwarded to the clerk of the superior court shall immediately be docketed and indexed on the cross index of judgments, and from the date of such docketing shall constitute a preferred lien upon any property which said claimant may own in said county, with the same force and effect as a judgment rendered by the superior court. The Commission shall forward a copy of said certificate to the sheriff or sheriffs of such county or counties, or to a duly authorized agent of the Commission, and when so forwarded and in the hands of such sheriff or agent of the Commission, shall have all the force and effect of an execution issued to such sheriff or agent of the Commission by the clerk of the superior court upon a judgment of the superior court duly docketed in said county. The Commission is further authorized and empowered to issue alias copies of said certificate or execution to the sheriff or sheriffs of such county or counties, or a duly authorized agent of the Commission in all cases in which the sheriff or duly authorized agent has returned an execution or certificate unsatisfied; when so issued and in the hands of the sheriff or duly authorized agent of the Commission, such alias shall have all the force and effect of an alias execution issued to such sheriff or duly authorized agent of the Commission by the clerk of the superior court upon a judgment of the superior court duly docketed in said county. Provided, however, that notwithstanding any provision of this subsection, upon filing one written notice with the Commission, the sheriff of any county shall have the sole and exclusive right to serve all executions and make all collections mentioned in this subsection and in such case, no agent of the Commission shall have the authority to serve any executions or make any collections therein in such county. A return of such execution or alias execution, shall be made to the Commission, together with all monies collected thereunder, and when such order, execution or alias is referred to the agent of the Commission for service, the said agent of the Commission shall be vested with all the powers of the sheriff to the extent of serving such order, execution or alias and levying or collecting thereunder. The agent of the Commission to whom such order or execution is referred shall give a bond not to exceed three thousand dollars ($3,000) approved by the Commission for the faithful performance of such duties. The liability of said agent shall be in the same manner and to the same extent as is now imposed on sheriffs in the service of execution. If any sheriff of this State or any agent of the Commission who is charged with the duty of serving executions shall wilfully fail, refuse or neglect to execute any order directed to him by the said Commission and within the time provided by law, the official bond of such sheriff or of such agent of the Commission shall be liable for the overpayments and costs due by the claimant. Additionally, the Commission or its

designated representatives in the collection of overpayments shall have the powers enumerated in G.S. 96-10(b)(2) and (3).

c. Any person who has been found by the Commission to have been overpaid under subparagraph (1) above shall be liable to have such sums deducted from future benefits payable to him under this Chapter.

d. Any person who has been found by the Commission to have been overpaid under subparagraph (2) above shall be liable to have such sums deducted from future benefits payable to him under this Chapter in such amounts as the Commission may by regulation prescribe but no such benefit payable for any week shall be reduced by more than fifty percent (50%) of that person's weekly benefit amount."

Sec. 16. G.S. 96-4 is amended by adding a new subsection to read:

"(s) Upon a finding of good cause, the Commission shall have the power in its sole discretion to forgive, in whole or in part, any overpayment arising under G.S. 96-18(g)(2)."

Sec. 17. This act shall become effective August 1, 1983.

In the General Assembly read three times and ratified, this the 27th day of June, 1983.

H. B. 434 CHAPTER 626

AN ACT TO PROVIDE A STATUTORY SHORT FORM POWER OF ATTORNEY AND A DURABLE POWER OF ATTORNEY STATUTE AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are hereby amended by adding a new Chapter thereto to read as follows:

"Chapter 32B.

"Powers of Attorney.

"Article 1.

"Statutory Short Form Power of Attorney.

"§ 32B-1. *Statutory Short Form of General Power of Attorney.*—The use of the following form in the creation of a power of attorney is lawful, and, when used, it shall be construed in accordance with the provisions of this Chapter.

'NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE DEFINED IN CHAPTER 32B OF THE NORTH CAROLINA GENERAL STATUTES WHICH EXPRESSLY PERMITS THE USE OF ANY OTHER OR DIFFERENT FORM OF POWER OF ATTORNEY DESIRED BY THE PARTIES CONCERNED.

State of ____

County of ____

Know all men by these presents, that I ____, the undersigned, of ____(address), County of ____, State of ____, hereby make, constitute,

and appoint ____ of ____(address), County of ____, State of ____, my true and lawful attorney-in-fact for me and in my name, place, and stead, giving unto said ____ full power to act in my name, place and stead in any way which I myself could do if I were personally present with respect to the following matters as each of them is defined in Chapter 32B of the North Carolina General Statutes to the extent that I am permitted by law to act through an agent: (Initial the line opposite any one or more of the subdivisions as to which the principal desires to give the agent authority and strike through those subdivisions remaining to which the principal does not give the agent authority.)

(1)	real property transactions;	_____
(2)	personal property transactions;	_____
(3)	bond, share and commodity transactions;	_____
(4)	banking transactions;	_____
(5)	safe deposits;	_____
(6)	business operating transactions;	_____
(7)	insurance transactions;	_____
(8)	estate transactions;	_____
(9)	personal relationships and affairs;	_____
(10)	tax, social security and unemployment;	_____
(11)	benefits from military service	_____

(with full power of substitution and revocation), hereby ratifying and affirming that which ____ (or the substitute) shall lawfully do or cause to be done by said attorney-in-fact (or the substitute lawfully designated by virtue of the power herein conferred upon said attorney-in-fact).

(If period of power of attorney is to be limited, add: "This power terminates ____, 19__.") (If power of attorney is to be a durable power of attorney under the provision of Article 2 of Chapter 32B and is to continue in effect after the incapacity or mental incompetence of the principal, add: "This power of attorney shall not be affected by my subsequent incapacity or mental incompetence.") (If power of attorney is to take effect only after the incapacity or mental incompetence of the principal, add: "This power of attorney shall become effective after I become incapacitated or mentally incompetent.") Dated ____, 19__.

_____
Signature

STATE OF_____ COUNTY OF_____

On this _____ day of _____, ____, personally appeared before me, the said named _____ to me known and known to me to be the person described in and who executed the foregoing instrument and he (or she) acknowledged that he (or she) executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

My Commission Expires _____ _____

(Signature of Notary Public)

Notary Public (Official Seal)'

"§ 32B-2. *Powers conferred by the Statutory Short Form Power of Attorney set out in G.S. 32B-1.*—The Statutory Short Form Power of Attorney set out in G.S. 32B-1 confers the following powers on the attorney-in-fact named therein:

(1) Real property transactions. To lease, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any interest in real property whatsoever, on such terms and conditions, and under such covenants, as said attorney-in-fact shall deem proper; and to maintain, repair, improve, manage, insure, rent, lease, sell, convey, subject to liens, mortgage, subject to deeds of trust, and in any way or manner deal with all or any part of any interest in real property whatsoever, that the principal owns at the time of execution or may thereafter acquire, for under such terms and conditions, and under such covenants, as said attorney-in-fact shall deem proper.

(2) Personal property transactions. To lease, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any personal property whatsoever, tangible or intangible, or interest thereto, on such terms and conditions, and under such covenants, as said attorney-in-fact shall deem proper; and to maintain, repair, improve, manage, insure, rent, lease, sell, convey, subject to liens, mortgages, subject to deeds of trust, and hypothecate, and in any way or manner deal with all or any part of any real or personal property whatsoever, tangible or intangible, or any interest therein, that the principal owns at the time of execution or may thereafter acquire, under such terms and conditions, and under such covenants, as said attorney-in-fact shall deem proper.

(3) Bond, share and commodity transactions. To request, ask, demand, sue for, recover, collect, receive, and hold and possess any bond, share, instrument of similar character, commodity interest or any instrument with respect thereto together with the interest, dividends, proceeds, or other distributions connected therewith, as now are, or shall hereafter become, owned by, or due, owing payable, or belonging to, the principal at the time of execution or in which the principal may thereafter acquire interest, to have, use, and take all lawful means and equitable and legal remedies, procedures, and writs in the name of the principal for the collection and recovery thereof, and to adjust, sell, compromise, and agree for the same, and to make, execute, and deliver for the principal, all indorsements, acquittances, releases, receipts, or other sufficient discharges for the same.

(4) Banking transaction. To make, receive, sign, indorse, execute, acknowledge, deliver, and possess checks, drafts, bills of exchange, letters of credit, notes, stock certificates, withdrawal receipts and deposit instruments relating to accounts or deposits in, or certificates of deposit of, banks, savings and loan or other institutions or associations for the principal.

(5) Safe deposits. To have free access at any time or times to any safe deposit box or vault to which the principal might have access.

(6) Business operating transactions. To conduct, engage in, and transact any and all lawful business of whatever nature or kind for the principal.

(7) Insurance transactions. To exercise or perform any act, power, duty, right or obligation whatsoever in regard to any contract of life, accident, health, disability or liability insurance or any combination of such insurance procured by or on behalf of the principal prior to execution; and to procure new, different

or additional contracts of insurance for the principal and to designate the beneficiary of any such contract of insurance, provided, however, that the agent himself cannot be such beneficiary unless the agent is spouse, child, grandchild, parent, brother or sister of the principal.

(8) Estate transactions. To request, ask, demand, sue for, recover, collect, receive, and hold and possess all legacies, bequests, devises, as are, owned by, or due, owing, payable, or belonging to, the principal at the time of execution or in which the principal may thereafter acquire interest, to have, use, and take all lawful means and equitable and legal remedies, procedures, and writs in the name of the principal for the collection and recovery thereof, and to adjust, sell, compromise, and agree for the same, and to make, execute, and deliver for the principal, all indorsements, acquittances, releases, receipts, or other sufficient discharges for the same.

(9) Personal relationships and affairs. To do all acts necessary for maintaining the customary standard of living of the principal, the spouse and children, and other dependents of the principal; to provide medical, dental and surgical care, hospitalization and custodial care for the principal, the spouse, and children, and other dependents of the principal; to continue whatever provision has been made by the principal, for the principal, the spouse, and children, and other dependents of the principal, with respect to automobiles, or other means of transportation; to continue whatever charge accounts have been operated by the principal, for the convenience of the principal, the spouse, and children, and other dependents of the principal, to open such new accounts as the attorney-in-fact shall think to be desirable for the accomplishment of any of the purposes enumerated in this section, and to pay the items charged on such accounts by any person authorized or permitted by the principal or the attorney-in-fact to make such charges; to continue the discharge of any services or duties assumed by the principal, to any parent, relative or friend of the principal; to continue payments incidental to the membership or affiliation of the principal in any church, club, society, order or other organization, or to continue contributions thereto.

(10) Tax, social security and unemployment. To prepare, to execute and to file all tax, social security, unemployment insurance and information returns required by the laws of the United States, or of any state or subdivision thereof, or of any foreign government, to prepare, to execute and to file all other papers and instruments which the agent shall think to be desirable or necessary for safeguarding of the principal against excess or illegal taxation or against penalties imposed for claimed violation of any law or other governmental regulation, and to pay, to compromise, or to contest or to apply for refunds in connection with any taxes or assessments for which the principal is or may be liable.

(11) Benefits from military service. To execute vouchers in the name of the principal for any and all allowances and reimbursements payable by the United States, or subdivision thereof, to the principal, arising from or based upon military service and to receive, to indorse and to collect the proceeds of any check payable to the order of the principal drawn on the treasurer or other fiscal officer or depositary of the United States or subdivision thereof; to take possession and to order the removal and shipment, of any property of the principal from any post, warehouse, depot, dock or other place of storage or safekeeping, either governmental or private, to execute and to deliver any

release, voucher, receipt, bill of lading, shipping ticket, certificate or other instrument which the agent shall think to be desirable or necessary for such purpose; to prepare, to file and to prosecute the claim of the principal to any benefit or assistance, financial or otherwise, to which the principal is, or claims to be, entitled, under the provisions of any statute or regulation existing at the creation of the agency or thereafter enacted by the United States or by any state or by any subdivision thereof, or by any foreign government, which benefit or assistance arises from or is based upon military service performed prior to or after execution.

"§ 32B-3. *Provisions not exclusive.*—The provisions of this Article are not exclusive and shall not bar the use of any other or different form of power of attorney desired by the parties concerned.

"Article 2.

"Durable Power of Attorney.

"§ 32B-8. *Definition.*—A durable power of attorney is a power of attorney by which a principal designates another his attorney-in-fact in writing and the writing contains a statement that it is executed pursuant to the provisions of this Article or the words 'This power of attorney shall not be affected by my subsequent incapacity or mental incompetence,' or 'This power of attorney shall become effective after I become incapacitated or mentally incompetent,' or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent incapacity or mental incompetence.

"§ 32B-9. *Registered durable power of attorney not affected by incapacity or mental incompetence.*—(a) All acts done by an attorney-in-fact pursuant to a durable power of attorney during any period of incapacity or mental incompetence of the principal have the same effect and inure to the benefit of and bind the principal and his successors in interest as if the principal were not incapacitated or mentally incompetent if the power of attorney has been registered under the provisions of subsection (b).

(b) No power of attorney executed pursuant to the provisions of this Article shall be valid subsequent to the principal's incapacity or mental incompetence unless it is registered in the office of the register of deeds of that county in this State designated in the power of attorney, or if no place of registration is designated, in the office of the register of deeds of the county in which the principal has his legal residence at the time of such registration or, if the principal has no legal residence in this State at the time of registration or the attorney-in-fact is uncertain as to the principal's residence in this State, in some county in the State in which the principal owns property or the county in which one or more of the attorneys-in-fact reside. A power of attorney executed pursuant to the provision of this Article shall be valid even though the time of such registration is subsequent to the incapacity or mental incompetence of the principal.

(c) Any person dealing in good faith with an attorney-in-fact acting under a power of attorney executed and then in effect under this Article shall be protected to the full extent of the powers conferred upon such attorney-in-fact, and no person so dealing with such attorney-in-fact shall be responsible for the misapplication of any money or other property paid or transferred to such attorney-in-fact.

"§ 32B-10. *Relation of attorney-in-fact to court-appointed fiduciary.*—(a) If, following execution of a durable power of attorney, a court of the principal's domicile appoints a conservator, guardian of the principal's person or estate, or other fiduciary charged with the management of all of the principal's property or all of his property except specified exclusions, the attorney-in-fact is accountable to the fiduciary as well as to the principal. The fiduciary has the same power to revoke or amend the power of attorney that the principal would have had if he were not incapacitated or mentally incompetent.

(b) A principal may nominate, by a durable power of attorney, the conservator, guardian of his estate, or guardian of his person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification.

"§ 32B-11. *File with clerk, records, inventories, accounts, fees, and commissions.*—(a) Within 30 days after registration of the power of attorney as provided in G.S. 32B-9(b), the attorney-in-fact shall file with the clerk of superior court in the county of such registration a copy of the power of attorney. Every attorney-in-fact acting under a power of attorney under this Article subsequent to the principal's incapacity or mental incompetence shall keep full and accurate records of all transactions in which he acts as agent of the principal and of all property of the principal in his hands and the disposition thereof.

(b) Any provision in the power of attorney waiving or requiring the rendering of inventories and accounts shall govern, and a power of attorney that waives the requirement to file inventories and accounts need not be filed with the clerk of superior court. Otherwise, subsequent to the principal's incapacity or mental incompetence, the attorney-in-fact shall file in the office of the clerk of the superior court of the county in which the power of attorney is filed, inventories of the property of the principal in his hands and annual and final accounts of the receipt and disposition of property of the principal and of other transactions in behalf of the principal. The power of the clerk to enforce the filing and his duties in respect to audit and recording of such accounts shall be the same as those in respect to the accounts of administrators, but the fees and charges of the clerk shall be computed or fixed only with relation to property of the principal required to be shown in the accounts and inventories. The fees and charges of the clerk shall be paid by the attorney-in-fact out of the principal's money or other property and allowed in his accounts. If the powers of an attorney-in-fact shall terminate for any reason whatever, he, or his executors or administrators, shall have the right to have a judicial settlement of a final account by any procedure available to executors, administrators or guardians.

(c) In the event that any power of attorney executed pursuant to the provisions of this Article does not contain the amount of commissions that the attorney-in-fact is entitled to receive or the way such commissions are to be determined, and the principal should thereafter become incapacitated or mentally incompetent, the commissions such attorney-in-fact shall receive subsequent to the principal's incapacity or mental incompetence shall be fixed in the discretion of the clerk of superior court pursuant to the provisions of G.S. 32-50(c).

"§ 32B-12. *Appointment, resignation, removal, and substitutions.*—(a) A power of attorney executed under this Article may contain any provisions, not unlawful, relating to the appointment, resignation, removal and substitution of an attorney-in-fact, and to the rights, powers, duties and responsibilities of the attorney-in-fact.

(b) If all attorneys-in-fact named in the instrument or substituted shall die, or cease to exist, or shall become incapable of acting, and all methods for substitution provided in the instrument have been exhausted, such power of attorney shall cease to be effective. Any substitution by a person authorized to make it shall be in writing signed and acknowledged by such person. Notice of every other substitution shall be in writing and acknowledged by the person substituted. No substitution or notice subsequent to the principal's subsequent incapacity or mental incompetence shall be effective until it has been recorded in the office of the register of deeds of the county in which the power of attorney has been recorded.

"§ 32B-13. *Revocation.*—Every power of attorney executed pursuant to the provisions of this Article shall be revoked by:

(1) The death of the principal; or

(2) Registration in the office of the register of deeds where the power of attorney has been registered of an instrument of revocation executed and acknowledged by the principal while he is not incapacitated or mentally incompetent, or by the registration in such office of an instrument of revocation executed by any person or corporation who is given such power of revocation in the power of attorney, or by this Article, with proof of service thereof in either case on the attorney-in-fact in the manner prescribed for service of summons in civil actions.

"§ 32B-14. *Powers of attorney executed under the provisions of G.S. 47-115.1.*—A power of attorney executed pursuant to G.S. 47-115.1 prior to October 1, 1983, shall be deemed to be a durable power of attorney as defined in G.S. 32B-8."

Sec. 2. G.S. 47-115.1 is hereby repealed and the title to Article 6 of Chapter 47 of the North Carolina General Statutes is rewritten to read as follows:

"Registration and Execution of Instruments Signed Under A Power of Attorney."

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 27th day of June, 1983.

H. B. 1114 CHAPTER 627

AN ACT TO AMEND ARTICLE 12, G.S. 115C-189 TO ALLOW THE STATE BOARD OF EDUCATION TO SELECT THE TYPE OF ANNUAL TEST TO BE USED IN THE FIRST, SECOND, THIRD, SIXTH AND NINTH GRADES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-189 is amended in the third sentence by changing the colon after the words "ninth grades" and before the word "Provided" to be a period, by deleting the remainder of the sentence, and by adding after the last sentence the following sentence: "The State Board of Education shall select

annually the type or types of tests to be used in the testing program. If norm-referenced tests are used in the first or second grade, the tests shall not be used as primary, definitive or exclusive criteria to make decisions with respect to grade promotion or placement in special education programs."

Sec. 2. G.S. 115C-191(a) is amended by changing the number "11" in the first sentence to "15", by deleting the word 'and' at the end of the third sentence, by changing the period at the end of the third sentence to a semicolon and by adding the following:

"one shall be a special education teacher in the elementary grades; one shall be a person representing a statewide parent group; and two shall be citizens of the State interested in education and not employees or spouses of employees of the State of North Carolina or of any local board of education."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1983.

H. B. 1197 CHAPTER 628

AN ACT TO AMEND THE WORKERS' COMPENSATION SECURITY FUND ACT.

The General Assembly of North Carolina enacts:

Section 1. The catch line of G.S. 97-110 is amended by deleting "5%" and substituting "4%". G.S. 97-110 is further amended by deleting the words "five per centum (5%)", each time they appear, and substituting "four per centum (4%)".

Sec. 2. G.S. 97-117 is amended by rewriting it to read:

"§ 97-117. *Contributions to stop when mutual fund exceeds 4% of loss reserves.*—Whenever the mutual fund less all known liabilities, shall exceed four per centum (4%) of the loss reserves of all mutual carriers for the payments of losses under the Workers' Compensation Act, as of December 31, next preceding, no further contributions shall be required to be made to the fund; provided, however, that whenever, thereafter, the amount of the fund shall be reduced below four per centum (4%) of the loss reserves as of that date by reason of payments from and known liabilities of the mutual fund, then the contributions to the fund shall be resumed immediately, and shall continue until the fund, over and above its known liabilities, shall be equal to four per centum (4%) of the reserves."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1983.

S. B. 298 CHAPTER 629

AN ACT TO ALLOW ISSUANCE OF FICTITIOUS DRIVERS' LICENSES AND REGISTRATION PLATES FOR ALCOHOL LAW ENFORCEMENT AGENTS AND DIVISION OF MOTOR VEHICLES LAW ENFORCEMENT PERSONNEL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-500, as the same appears in the 1981 Cumulative Supplement to Volume 1C of the General Statutes, is hereby amended by adding subsection (f) which reads as follows:

"(f) Cooperation with the Division of Motor Vehicles. Notwithstanding any provisions of Chapter 20 of the North Carolina General Statutes, the North Carolina Commissioner of Motor Vehicles may lawfully cooperate with the Secretary of Crime Control and Public Safety to the extent necessary to provide Alcohol Law Enforcement agents on special undercover assignments with motor vehicle operators' licenses and motor vehicle registration plates under assumed names using false or fictitious addresses. The Secretary of Crime Control and Public Safety shall be responsible for the request for issuance and the use thereof. Upon request of the Commissioner of Motor Vehicles, the Secretary of Crime Control and Public Safety shall immediately return any operator's license or registration plate issued pursuant to this section."

Sec. 2. G.S. 20-39 is hereby amended by adding a new subsection to be designated as subsection (g) and to read as follows:

"(g) The Commissioner, notwithstanding any other provision of this Chapter, may lawfully to the extent necessary provide law enforcement officers of the Division on special undercover assignments with motor vehicle operator's licenses and motor vehicle registration plates under assumed names using false or fictitious addresses. The Commissioner shall be responsible for the request for issuance and use thereof. The Commissioner may direct the immediate return of any operator's license or registration plate issued pursuant to this section."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1984.

S. B. 547 CHAPTER 630

AN ACT TO CLARIFY THE RESPONSIBILITY OF THE STATE BOARD OF EDUCATION FOR THE STATE'S SCHOOL TRANSPORTATION SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-12 is amended by adding a new subdivision to read:

"(17) Power to provide for school transportation programs. The State Board of Education is authorized and empowered to promulgate such policies, rules, and regulations as it may deem necessary and desirable for the operation of a public school transportation system by each local administrative unit in the State. Such policies, rules, and regulations shall include, but are not limited to, fund allocations and fiscal support to assure the effective and efficient use of funds appropriated by the General Assembly in support of the school transportation system. Nothing herein shall be construed to affect in any way

or to lessen in any way the full and complete authority of local boards of education to assign pupils to schools in accordance with G.S. 115C-366."

Sec. 2. The first sentence of G.S. 115C-239 is rewritten to read:

"Each local board of education is hereby authorized to acquire, own, lease, contract and operate school buses for the transportation of pupils enrolled in the public schools of such local school administrative unit, and of persons employed in the operation of such schools in accordance with rules and regulations adopted by the State Board of Education under the authority of G.S. 115C-12(17) and within the limitations set forth in G.S. 115C-239 to 115C-246, 115C-248 to 115C-254 and 115C-256 to 115C-259."

Sec. 3. G.S. 115C-240(a) is rewritten to read:

"(a) The State Board of Education shall promulgate rules and regulations for the operation of a public school transportation system."

Sec. 4. G.S. 115C-240(d) is rewritten to read:

"(d) The State Board of Education shall assist local boards of education by establishing guidelines and a framework through which local boards may establish, review and amend school bus routes prepared pursuant to G.S. 115C-246. The State Board of Education shall also assist local boards of education with reference to the acquisition and maintenance of school buses or any other question which may arise in connection with the organization and operation of school bus transportation systems of local boards."

Sec. 5. G.S. 115C-240(e) is amended by deleting the word "all" from the first sentence, by deleting the word "All" at the beginning of the second sentence and by adding at the end of the subsection a new sentence to read:

"If there is evidence of inequitable or inefficient use of funds, the State Board of Education shall be empowered to review school bus routes established by local boards pursuant to G.S. 115C-246 as well as other factors. affecting the cost of the transportation of pupils by school bus."

Sec. 6. G.S. 115C-240(f) is amended by deleting the first sentence and by rewriting the second sentence to read:

"The respective local boards shall use such funds for the purposes of replacing, maintaining, insuring, and operating public school buses and service vehicles in accordance with the provisions of G.S. 115C-239 to 115C-246, 115C-248 to 115C-254 and 115C-256 to 115C-259 and for no other purpose, but in the making of expenditures for such purposes shall be subject to rules and regulations promulgated by the State Board of Education."

Sec. 7. The first sentence of G.S. 115C-242(5) is rewritten to read:

"Local boards of education, under rules and regulations adopted by the State Board of Education, may permit the use and operation of school buses for the transportation of pupils and instructional personnel as the board deems necessary to serve the instructional programs of the schools."

Sec. 8. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 27th day of June, 1983.

H. B. 37 CHAPTER 631

AN ACT TO RECODIFY CERTAIN CRIMINAL STATUTES REGARDING JAIL CONFINEMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-260 is recodified as G.S. 162-55.

Sec. 2. G.S. 14-261 is recodified as G.S. 162-56, and is rewritten as follows:

"Persons committed to the custody of a sheriff shall be confined in the facilities designated by law for such confinement, and shall not be confined in any other place. Nothing herein shall be construed to prohibit or limit the authority of a sheriff to house prisoners committed to his custody in quarters, approved by the Department of Human Resources, other than the county jail."

Sec. 3. G.S. 14-264 is recodified as G.S. 162-57.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1983.

H. B. 305 CHAPTER 632

AN ACT TO AMEND THE LAWS PERTAINING TO THE EXECUTIVE MANSION FINE ARTS COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-79(5) is amended by deleting the words "Art Commission or the Historical Commission" and substituting "Committee".

Sec. 2. Part 10 of Article 2 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-80.1. *Regular and special meetings.*—The Executive Mansion Fine Arts Committee shall meet at least twice per year and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least five members.

Whenever a member shall fail, except for ill health or other valid reason, to be present for two successive regular meetings of the Board, his place as a member shall be deemed vacant."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1983.

H. B. 698 CHAPTER 633

AN ACT TO STRENGTHEN THE PROHIBITION AGAINST DANGEROUS WEAPONS AT PARADES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-277.2(a) is amended by inserting in the last sentence thereof between the words "truck" and "does" the following language:

"at a holiday parade or in a funeral procession".

Sec. 2. This act shall become effective October 1, 1983, and applies to acts committed on or after this date.

In the General Assembly read three times and ratified, this the 28th day of June, 1983.

H. B. 773 CHAPTER 634

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO LEASE THE RIGHT-OF-WAY OF INTERSTATE HIGHWAY 40 TO THE CITY OF WINSTON-SALEM FOR A PARKING FACILITY.

The General Assembly of North Carolina enacts:

Section 1. The Department of Transportation is hereby authorized and empowered to lease to the City of Winston-Salem the portion of the right-of-way of Interstate Highway 40 below the elevated roadway and lying between Cloverdale Avenue and the bridge end East of Hawthorne Road, exclusive of any street right-of-way, for parking facility, the lease to provide for subleasing of the right-of-way in whole or in part by the City of Winston-Salem for public or private parking; provided, in the opinion of the Department of Transportation such parking facility will not unreasonably interfere with or impair any property rights and easements of abutting owners, unreasonably interfere with or obstruct the public use of Interstate Highway 40 nor unreasonably interfere with or obstruct the maintenance of the highway structure located on the right-of-way.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1983.

H. B. 1192 CHAPTER 635

AN ACT TO REQUIRE A CONFERENCE ON JURY INSTRUCTIONS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 15A-1231(b) is rewritten to read: "(b) Before the arguments to the jury, the judge must hold a recorded conference on instructions out of the presence of the jury."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1983.

S. B. 107 CHAPTER 636

AN ACT TO REVISE THE ANNEXATION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-49(a) through (c) are rewritten to read:

"(a) Notice of Intent. Any municipal governing board desiring to annex territory under the provisions of this Part shall first pass a resolution stating the intent of the municipality to consider annexation. Such resolution shall describe the boundaries of the area under consideration and fix a date for a public hearing on the question of annexation, the date for such public hearing to be not less than 45 days and not more than 90 days following passage of the resolution.

(b) Notice of Public Hearing. The notice of public hearing shall:

(1) Fix the date, hour and place of the public hearing.

(2) Describe clearly the boundaries of the area under consideration, and include a legible map of the area.

(3) State that the report required in G.S. 160A-47 will be available at the office of the municipal clerk at least 30 days prior to the date of the public hearing.

Such notice shall be given by publication in a newspaper having general circulation in the municipality once a week for at least two successive weeks prior to the date of the hearing. The period from the date of the first publication to the date of the last publication, both dates inclusive, shall be not less than eight days including Sundays, and the date of the last publication shall be not more than seven days preceding the date of public hearing. If there be no such newspaper, the municipality shall post the notice in at least five public places within the municipality and at least five public places in the area to be annexed for 30 days prior to the date of public hearing. In addition, notice shall be mailed at least four weeks prior to date of the hearing by first class mail, postage prepaid to the owners as shown by the tax records of the county of all freehold interests in real property located within the area to be annexed. The person or persons mailing such notices shall certify to the governing board that fact, and such certificate shall become a part of the record of the annexation proceeding and shall be deemed conclusive in the absence of fraud. If the notice is returned to the city by the postal service by the tenth day before the hearing, a copy of the notice shall be sent by certified mail, return receipt requested, at least seven days before the hearing. Failure to comply with the mailing requirements of this subsection shall not invalidate the annexation unless it is shown that the requirements were not substantially complied with. If the governing board by resolution finds that the tax records are not adequate to identify the owners of some or all of the parcels of real property within the area it may in lieu of the mail procedure as to those parcels where the owners could not be so identified, post the notice at least 30 days prior to the date of public hearing on all buildings on such parcels, and in at least five other places within the area to be annexed. In any case where notices are placed on property, the person placing the notices shall certify that fact to the governing board.

(c) Action Prior to Hearing. At least 30 days before the date of the public hearing, the governing board shall approve the report provided for in G.S. 160A-47, and shall make it available to the public at the office of the municipal clerk. In addition, the municipality may prepare a summary of the full report for public distribution. In addition, the city shall post in the office of the city clerk, at least 30 days before the public hearing, a legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed that it has identified."

Sec. 2. G.S. 160A-37(a) through (c) are rewritten to read:

"(a) Notice of Intent. Any municipal governing board desiring to annex territory under the provisions of this Part shall first pass a resolution stating the intent of the municipality to consider annexation. Such resolution shall describe the boundaries of the area under consideration and fix a date for a public hearing on the question of annexation, the date for such public hearing to be not less than 45 days and not more than 90 days following passage of the resolution.

(b) Notice of Public Hearing. The notice of public hearing shall:

(1) Fix the date, hour and place of the public hearing.

(2) Describe clearly the boundaries of the area under consideration, and include a legible map of the area.

(3) State that the report required in G.S. 160A-35 will be available at the office of the municipal clerk at least 30 days prior to the date of the public hearing.

Such notice shall be given by publication in a newspaper having general circulation in the municipality once a week for at least two successive weeks prior to the date of the hearing. The period from the date of the first publication to the date of the last publication, both dates inclusive, shall be not less than eight days including Sundays, and the date of the last publication shall be not more than seven days preceding the date of public hearing. If there be no such newspaper, the municipality shall post the notice in at least five public places within the municipality and at least five public places in the area to be annexed for 30 days prior to the date of public hearing. In addition, notice shall be mailed at least four weeks prior to date of the hearing by first class mail, postage prepaid to the owners as shown by the tax records of the county of all freehold interests in real property located within the area to be annexed. The person or persons mailing such notices shall certify to the governing board that fact, and such certificate shall become a part of the record of the annexation proceeding and shall be deemed conclusive in the absence of fraud. If the notice is returned to the city by the postal service by the tenth day before the hearing, a copy of the notice shall be sent by certified mail, return receipt requested, at least seven days before the hearing. Failure to comply with the mailing requirement of this subsection shall not invalidate the annexation unless it is shown that the requirements were not substantially complied with.

If the governing board by resolution finds that the tax records are not adequate to identify the owners of some or all of the parcels of real property within the area it may in lieu of the mail procedure as to those parcels where the owners could not be so identified, post the notice at least 30 days prior to the date of public hearing on all buildings on such parcels, and in at least five other places within the area to be annexed. In any case where notices are placed on property, the person placing the notice shall certify that fact to the governing board.

(c) Action Prior to Hearing. At least 30 days before the date of the public hearing, the governing board shall approve the report provided for in G.S. 160A-35, and shall make it available to the public at the office of the municipal clerk. In addition, the municipality may prepare a summary of the full report for public distribution. In addition, the city shall post in the office of the city clerk at least 30 days before the public hearing a legible map of the area to be annexed and a list of the persons holding freehold interests in property in the area to be annexed that it has identified."

Sec. 3. G.S. 160A-49(e) is amended by adding the following immediately before the period at the end of the first sentence ", provided that if the annexation report is amended to show additional subsections of G.S. 160A-48(c) or (d) under which the annexation qualifies that were not listed in the original report, the city must hold an additional public hearing on the annexation not less than 30 nor more than 90 days after the date the report is amended, and notice of such new hearing shall be given at the first public hearing."

Sec. 4. G.S. 160A-37(e) is amended in the second sentence by deleting "no sooner than the seventh day following the public hearing and not later than 60 days", and inserting in lieu thereof the words "no sooner than the tenth day following the public hearing and not later than 90 days".

Sec. 5. G.S. 160A-49(e) is amended by deleting "no sooner than the seventh day following the public hearing and no later than 60 days", and inserting in lieu thereof the words "no sooner than the tenth day following the public hearing and not later than 90 days".

Sec. 6. G.S. 160A-37(e)(4) and G.S. 160A-49(e)(4) are each rewritten to read:

"(4) Fix the effective date for annexation. The effective date of annexation may be fixed for any date not less than 40 days nor more than 400 days from the date of passage of the ordinance."

Sec. 7. G.S. 160A-47(1)b. is amended by adding the following new sentence at the end to read:

"The water and sewer map must bear the seal of a registered professional engineer."

Sec. 7.1. G.S. 160A-35(1)b. is amended by adding the following new sentence at the end to read:

"The water and sewer map must bear the seal of a registered professional engineer or a licensed surveyor."

Sec. 8. G.S. 160A-33(5) is amended by deleting the words "as soon as possible following annexation" and inserting in lieu thereof the words "in accordance with G.S. 160A-35(3)".

Sec. 9. G.S. 160A-45(5) is amended by deleting the words "as soon as possible following annexation" and inserting in lieu thereof the words "in accordance with G.S. 160A-47(3)".

Sec. 10. G.S. 160A-47(3)b. is amended by adding the following new sentence at the end:

"If requested by the owner of an occupied dwelling unit or an operating commercial or industrial property in writing on a form provided by the municipality, which form acknowledges that such extension or extensions will be made according to the current financial policies of the municipality for making such extensions, and if such form is received by the city clerk not less than 30 days before adoption of the annexation ordinance, provide for extension of water and sewer lines to the property or to a point on a public street or road right-of-way adjacent to the property according to the financial policies in effect in such municipality for extending water and sewer lines. If any such requests are timely made, the municipality shall at the time of adoption of the annexation ordinance amend its report and plan for services to reflect and accommodate such requests."

Sec. 11. G.S. 160A-47(3)c. is rewritten to read:

"If extension of major trunk water mains, sewer outfall lines, sewer lines and water lines is necessary, set forth a proposed timetable for construction of such mains, outfalls and lines as soon as possible following the effective date of annexation. In any event, the plans shall call for construction to be completed within two years of the effective date of annexation."

Sec. 12. G.S. 160A-49(e)(3) is amended by adding immediately after the word "outfalls" the words "and such water and sewer lines as required in G.S. 160A-47(3)(b)".

Sec. 13. G.S. 160A-49(h) is amended: (1) by inserting immediately after the citation "G.S. 160A-49(e)," the words "for any required service other than water and sewer services"; and (2) by rewriting the second paragraph to read:

"If, not earlier than 24 months from the effective date of the annexation, and not later than 27 months from the effective date of the annexation, any person owning property in the annexed area can show that the plans submitted under the provisions of G.S. 160A-47(3)c. require the construction of major trunk water mains and sewer outfall lines and if construction has not been completed within two years of the effective date of the annexation, relief may also be granted by the superior court by an order by the municipality to complete such lines and outfalls within a certain time. Similar relief may be granted by the superior court to any owner of property who made a timely request for a water or sewer line, or both, pursuant to G.S. 160A-47(3)b. and such lines have not been completed within two years from the effective date of annexation in accordance with applicable city policies and through no fault of the owner, if such owner petitions for such relief not earlier than 24 months following the effective date of annexation and not later than 27 months following the effective date of annexation."

Sec. 14. G.S. 160A-49 is amended by adding a new subsection to read:

"(j) If a valid request for extension of a water or sewer line has been made under G.S. 160A-47(3)b, and the extension is not complete at the end of two years after the effective date of the annexation ordinance, the owner of the property may petition the Local Government Commission for abatement of taxes to be paid to the city which have not been levied as of the expiration date of the two-year period, if such petition is filed not more than 60 days after the expiration of the two-year period. If the Local Government Commission finds that the extension to the property was not complete by the end of the two-year period, it shall enter an order directing the city not to levy any further ad valorem taxes on the property until the fiscal year commencing after completion of the extension. In addition, if the Local Government Commission found that the extension to the property was not completed by the end of the two-year period, and if it finds that for any fiscal year during the period beginning with the first day of the fiscal year in which the annexation ordinance became effective and ending the last day of the fiscal year in which the two-year period expired, the city made an appropriation for construction, operation or maintenance of a water or sewer system (other than payments the city made as a customer of the system) from the fund or funds for which ad valorem taxes are levied, then the Local Government Commission shall order the city to release or refund an amount of the petitioner's property taxes for that year in question in proportion to the percentage of appropriations in the fund made for water and sewer services. By way of illustration, if a net amount of one hundred thousand dollars ($100,000) was appropriated for water or sewer construction, operation or maintenance from a fund which had total expenditures of ten million dollars ($10,000,000) and the petitioner's tax levy was one thousand dollars ($1,000), the amount of release or refund shall be ten dollars ($10.00)."

Sec. 14.1. G.S. 160A-50 is amended by adding a new subsection to read:

"(j) If a petition for review is filed under subsection (a) of this section or an appeal is filed under G.S. 160A-49.1(g), and in either case a stay is granted, then the time periods of two years, 24 months or 27 months provided in G.S. 160A-47(3)c., 160A-49(h), or 160A-49(j) are each extended by the lesser of the length of the stay or one year for that annexation."

Sec. 15. G.S. 160A-48(c)(2) is amended by deleting "sixty percent (60%)" the second time it appears and inserting in lieu thereof the words and figures "sixty-five percent (65%)".

Sec. 16. G.S. 160A-35(3)a. is amended by adding the following new sentence immediately after the first sentence:

"A contract with a rural fire department to provide fire protection shall be an acceptable method of providing fire protection."

Sec. 17. G.S. 160A-47(3)a. is amended by adding the following new sentence immediately following the first sentence:

"A contract with a rural fire department to provide fire protection shall be an acceptable method of providing fire protection."

Sec. 17.1. G.S. 160A-1 is amended by adding a new subdivision to read:

"(8) 'Rural Fire Department' means, for the purpose of Articles 4A or 14 of this Chapter, a bona fide department which, as determined by the Commissioner of Insurance, is classified as not less than class '9' in accordance with rating methods, schedules, classifications, underwriting rules, bylaws or regulations effective or applied with respect to the establishment of rates or premiums used or charged pursuant to Article 12B or Article 13C of Chapter 58 of the General Statutes, and which operates fire apparatus and equipment of the value of five thousand dollars ($5,000) or more; but it does not include a municipal fire department."

Sec. 18. G.S. 160A-35 is amended by adding a new subdivision to read:

"(4) A statement of the impact of the annexation on any rural fire department providing service in the area to be annexed and a statement of the impact of the annexation on fire protection and fire insurance rates in the area to be annexed, if the area where service is provided is in an insurance district designated under G.S. 153A-233, a rural fire protection district under Article 3A of Chapter 69 of the General Statutes, or a fire service district under Article 16 of Chapter 153A of the General Statutes. The rural fire department shall make available to the city not later than 30 days following a written request from the city all information in its possession or control, including but not limited to operational, financial and budgetary information, necessary for preparation of a statement of impact."

Sec. 19. G.S. 160A-47 is amended by adding a new subdivision to read:

"(4) A statement of the impact of the annexation on any rural fire department providing service in the area to be annexed and a statement of the impact of the annexation on fire protection and fire insurance rates in the area to be annexed, if the area where service is provided is in an insurance district designated under G.S. 153A-233, a rural fire protection district under Article 3A of Chapter 69 of the General Statutes, or a fire service district under Article 16 of Chapter 153A of the General Statutes. The rural fire department shall make available to the city not later than 30 days following a written request from the city all information in its possession or control, including but not limited to operational, financial and budgetary information, necessary for preparation of a statement of impact."

Sec. 20. Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-37.1. *Contract with rural fire department.*—(a) If the area to be annexed described in a resolution of intent passed under G.S. 160A-37(a) includes an area in an insurance district defined under G.S. 153A-233, a rural

fire protection district under Article 3A of Chapter 69 of the General Statutes, or a fire service district under Article 16 of Chapter 153A of the General Statutes, and a rural fire department was on the date of adoption of the resolution of intent providing fire protection in the area to be annexed, then the city (if the rural fire department makes a written request for a good faith offer, and the request is signed by the chief officer of the fire department and delivered to the city clerk no later than 15 days before the public hearing) is required to make a good faith effort to negotiate a five-year contract with the rural fire department to provide fire protection in the area to be annexed.

(b) If the area is a rural fire protection district or a fire service district, then an offer to pay annually for the term of the contract the amount of money that the tax rate in the district in effect on the date of adoption of the resolution of intent would generate based on property values on January 1 of each year in the area to be annexed which is in such a district is deemed to be a good faith offer of consideration for the contract.

(c) If the area is an insurance district but not a rural fire protection district or fire service district, then an offer to pay annually over the term of the contract the amount of money which is determined to be the equivalent of the amount which would be generated by multiplying the fraction of the city's general fund budget in that current fiscal year which is proposed to be expended for fire protection times the tax rate for the city in the current year, and multiplying that result by the property valuation in the area to be annexed which is served by the rural fire department is deemed to be a good faith offer of consideration for the contract; provided that the payment shall not exceed the equivalent of fifteen cents (15¢) on one hundred dollars ($100.00) valuation of annexed property in the district according to county valuations for the current fiscal year.

(d) Any offer by a city to a rural fire department which would compensate the rural fire department for revenue loss directly attributable to the annexation by paying such annually for five years, is deemed to be a good faith offer of consideration for the contract.

(e) Under subsections (b), (c), or (d) of this section, if the good faith offer is for first responder service, an offer of one-half the calculated amount under those subsections is deemed to be a good faith offer.

(f) This section does not obligate the city or rural fire department to enter into any contract.

(g) The rural fire department may, if it feels that no good faith offer has been made, appeal to the Local Government Commission within 30 days following the passage of an annexation ordinance. The rural fire department may apply to the Local Government Commission for an order staying the operation of the annexation ordinance pending the outcome of the review. The Commission may grant or deny the stay in its discretion upon such terms as it deems proper, and it may permit annexation of any part of the area described in the ordinance concerning which no question for review has been raised, provided that no other appeal under G.S. 160A-38 is pending.

(h) The Local Government Commission may affirm the ordinance, or if the Local Government Commission finds that no good faith offer has been made, it shall remand the ordinance to the municipal governing board for further proceedings, and the ordinance shall then not become effective unless the Local Government Commission finds that a good faith offer has been made.

(i) Any party to the review under subsection (h) may obtain judicial review in accordance with Chapter 150A of the General Statutes."

Sec. 21. Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-49.1. *Contract with rural fire department.*—(a) If the area to be annexed described in a resolution of intent passed under G.S. 160A-49(a) includes an area in an insurance district defined under G.S. 153A-233, a rural fire protection district under Article 3A of Chapter 69 of the General Statutes, or a fire service district under Article 16 of Chapter 153A of the General Statutes, and a rural fire department was on the date of adoption of the resolution of intent providing fire protection in the area to be annexed, then the city (if the rural fire department makes a written request for a good faith offer, and the request is signed by the chief officer of the fire department and delivered to the city clerk no later than 15 days before the public hearing) is required to make a good faith effort to negotiate a five-year contract with the rural fire department to provide fire protection in the area to be annexed.

(b) If the area is a rural fire protection district or a fire service district, then an offer to pay annually for the term of the contract the amount of money that the tax rate in the district in effect on the date of adoption of the resolution of intent would generate based on property values on January 1 of each year in the area to be annexed which is in such a district is deemed to be a good faith offer of consideration for the contract.

(c) If the area is an insurance district but not a rural fire protection district or fire service district, then an offer to pay annually over the term of the contract the amount of money which is determined to be the equivalent of the amount which would be generated by multiplying the fraction of the city's general fund budget in that current fiscal year which is proposed to be expended for fire protection times the tax rate for the city in the current year, and multiplying that result by the property valuation in the area to be annexed which is served by the rural fire department is deemed to be a good faith offer of consideration for the contract; provided that the payment shall not exceed the equivalent of fifteen cents (15¢) on one hundred dollars ($100.00) valuation of annexed property in the district according to county valuations for the current fiscal year.

(d) Any offer by a city to a rural fire department which would compensate the rural fire department for revenue loss directly attributable to the annexation by paying such amount annually for five years, is deemed to be a good faith offer of consideration for the contract.

(e) Under subsections (b), (c), or (d) of this section, if the good faith offer is for first responder service, an offer of one-half the calculated amount under those subsections is deemed to be a good faith offer.

(f) This section does not obligate the city or rural fire department to enter into any contract.

(g) The rural fire department may, if it feels that no good faith offer has been made, appeal to the Local Government Commission within 30 days following the passage of an annexation ordinance. The rural fire department may apply to the Local Government Commission for an order staying the operation of the annexation ordinance pending the outcome of the review. The Commission may grant or deny the stay in its discretion upon such terms as it deems proper, and it may permit annexation of any part of the area described in the ordinance

concerning which no question for review has been raised, provided that no other appeal under G.S. 160A-50 is pending.

(h) The Local Government Commission may affirm the ordinance, or if the Local Government Commission finds that no good faith offer has been made, it shall remand the ordinance to the municipal governing board for further proceedings, and the ordinance shall then not become effective unless the Local Government Commission finds that a good faith offer has been made.

(i) Any party to the review under subsection (h) may obtain judicial review in accordance with Chapter 150A of the General Statutes."

Sec. 22. Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-37.2. *Assumption of debt.*—(a) If the city has annexed any area which is served by a rural fire department and which is in an insurance district defined under G.S. 153A-233, a rural fire protection district under Article 3A of Chapter 69 of the General Statutes or a fire service district under Article 16 of Chapter 153A of the General Statutes, then upon the effective date of annexation if the city has not contracted with the rural fire department for fire protection, or when the rural fire department ceases to provide fire protection under contract, then the city shall pay annually a proportionate share of any payments due on any debt (including principal and interest) relating to facilities or equipment of the rural fire department, if the debt was existing at the time of adoption of the resolution of intent, with the payments in the same proportion that the assessed valuation of the area of the district annexed bears to the assessed valuation of the entire district on the date the annexation ordinance becomes effective.

(b) The city and rural fire department shall jointly present a payment schedule to the Local Government Commission for approval and no payment may be made until such schedule is approved."

Sec. 23. Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-49.2. *Assumption of debt.*—(a) If the city has annexed any area which is served by a rural fire department and which is in an insurance district defined under G.S. 153A-233, a rural fire protection district under Article 3A of Chapter 69 of the General Statutes or a fire service district under Article 16 of Chapter 153A of the General Statutes, then upon the effective date of annexation if the city has not contracted with the rural fire department for fire protection, or when the rural fire department ceases to provide fire protection under contract, then the city shall pay annually a proportionate share of any payments due on any debt (including principal and interest) relating to facilities or equipment of the rural fire department, if the debt was existing at the time of adoption of the resolution of intent, with the payments in the same proportion that the assessed valuation of the area of the district annexed bears to the assessed valuation of the entire district on the date the annexation ordinance becomes effective.

(b) The city and rural fire department shall jointly present a payment schedule to the Local Government Commission for approval and no payment may be made until such schedule is approved."

Sec. 24. G.S. 118-42 is amended by adding the following new paragraph immediately before the last paragraph:

"Any member who, because his residence is annexed by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, and because of such annexation is unable to perform as a fireman of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of five dollars ($5.00) to the fund until he has paid into the fund the sum of one thousand two hundred dollars ($1,200). The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member."

Sec. 25. Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-294. *Loss of rural fire employment.*—(a) Whenever a city annexes any territory under Parts 2 or 3 of Article 4A of this Chapter, and because of the annexation the rural fire department must terminate the employment of any full-time employee, then the annexing city must take one of the three actions listed below with respect to any person who has been in such full-time employment for two years or more at the time of adoption of the resolution of intent:

(1) The annexing city may offer employment without loss of salary or seniority and place the person in a position as near as possible in type to the position that was held in the rural fire department; or

(2) The annexing city may offer employment in some other department of the city at a comparable salary and seniority; or

(3) The city may choose to pay to the person a sum equal to the person's salary for one year as the equivalent of severance pay. For the purpose of this subsection, the person's salary was his total salary with the rural fire department for the 12-month period ending on the last pay period before the resolution of consideration was adopted, plus any increased salary due to reasonable cost-of-living increases and bona fide promotions; provided that if no resolution of consideration was required to be adopted because of either G.S. 160A-37(j) or G.S. 160A-49(j), or because the resolution of intent was adopted prior to July 1, 1984, the person's salary was his total salary with the rural fire department for the 12-month period ending on the last pay period before the resolution of intent was adopted, plus any increased salary due to reasonable cost-of-living increases and bona fide promotions.

(b) This section is effective with respect to all annexations where an annexation ordinance is adopted on or after January 1, 1983, except that it is also effective with respect to all annexations where an annexation ordinance was adopted before January 1, 1983, but on January 1, 1983, the annexation ordinance:

(i) was under review under G.S. 160A-38 or G.S. 160A-50, and a stay is in effect under G.S. 160A-38(e) or G.S. 160A-50(e); or

(ii) was subject to the Voting Rights Act of 1965 but had not yet been approved under that act."

Sec. 25.1. The catchline of Part 1 of Article 4A of Chapter 160A of the General Statutes is rewritten to read "Part 1. Extension by Petition".

Sec. 26. G.S. 160A-24 through G.S. 160A-28 are repealed.

Sec. 26.1. G.S. 160A-32 is repealed.

Sec. 27. G.S. 160A-43, 160A-44, 160A-55, and 160A-56 are repealed.

Sec. 28. Chapter 983, Session Laws of 1973, is repealed.

Sec. 29. Chapter 335, Session Laws of 1973, is repealed.

Sec. 30. Chapter 91, Session Laws of 1981, is repealed.

Sec. 31. Chapter 453, Session laws of 1973, is repealed.

Sec. 32. Article VIII of the Charter of the City of High Shoals, being Chapter 317, Session Laws of 1973, is repealed.

Sec. 33. Chapter 1058, Session Laws of 1969, is repealed.

Sec. 34. Article 2 of the Charter of the City of Fayetteville, being Chapter 557, Session Laws of 1979, is repealed.

Sec. 35. Section 2.1 of the Charter of the Village of Walnut Creek, being Chapter 687, Session Laws of 1975, as amended by Chapter 55, Session Laws of 1977 and Chapter 257, Session Laws of 1979, is further amended by rewriting that part of the first sentence before the colon to read: "The corporate boundaries of the Village of Walnut Creek, until changed in accordance with law, are as follows".

Sec. 35.1. Section 1-1 of the Charter of the Town of Maggie Valley, being Chapter 1337, Session Laws of 1973, is amended by deleting all of that section after the words "General Statutes" appear the first time, and inserting in lieu thereof a period.

Sec. 35.2. Chapter 305, Session Laws of 1959 is repealed.

Sec. 35.3. Section 505 of the Charter of the City of Thomasville, being Chapter 211, Session Laws of 1981, is amended by deleting the words "in Chapter 305, Session Laws of 1959", and inserting in lieu thereof the words "by law".

Sec. 35.4. Section 1.3 of the Charter of the Town of Cajah Mountain, being Chapter 52, Session Laws of 1983, is repealed.

Sec. 35.5. The boundaries of the Thomasville City School Administrative Unit shall remain as they are on the date of ratification of this act until changed in accordance with law.

Sec. 36. G.S. 160A-37 is amended by adding new subsections to read:

"(i) No resolution of intent may be adopted under subsection (a) of this section unless the city council (or a planning agency created or designated under either G.S. 160A-361 or the charter) has, by resolution adopted at least one year prior to adoption of the resolution of intent, identified the area as being under consideration for annexation. The area described under the resolution of intent may comprise a smaller area than that identified by the resolution of consideration. The resolution of consideration may have a metes and bounds description or a map, shall remain effective for two years after adoption, and shall be filed with the city clerk.

(j) Subsection (i) of this section shall not apply to the annexation of any area if the resolution of intent describing the area and the ordinance annexing the area both provide that the effective date of the annexation shall be at least one year from the date of passage of the annexation ordinance."

Sec. 37. G.S. 160A-49 is amended by adding new subsections to read:

"(i) No resolution of intent may be adopted under subsection (a) of this section unless the city council (or planning agency created or designated under either G.S. 160A-361 or the charter) has, by resolution adopted at least one year prior to adoption of the resolution of intent, identified the area as being under consideration for annexation. The area described under the resolution of intent may comprise a smaller area than that identified by the resolution of consideration. The resolution of consideration may have a metes and bounds description or a map and shall remain effective for two years after adoption, and shall be filed with the city clerk.

(j) Subsection (i) of this section shall not apply to the annexation of any area if the resolution of intent describing the area and the ordinance annexing the area both provide that the effective date of the annexation shall be at least one year from the date of passage of the annexation ordinance."

Sec. 37.1. The General Assembly intends by this act to repeal all acts and provisions of acts that modify the application to particular cities and towns of Parts 2 and 3 of Article 4 of Chapter 160A of the General Statutes or that exempt particular cities or towns from the application of either or both of those two Parts. Therefore, all such acts and provisions of acts, even if not specifically listed and repealed in Sections 26 through 35.4 of this act, are repealed. Neither this section nor Sections 26 through 35.4 of this act shall affect any annexation in progress on the dates of ratification of this act under any of the repealed or amended sections.

Sec. 38. This act shall be effective with respect to all annexations where resolutions of intent are adopted on or after the date of ratification of this act, except that Sections 36 and 37 shall become effective with respect to all annexations where resolutions of intent are adopted on or after July 1, 1984, Sections 25.1 through 35.5 and Section 37.1 are effective upon ratification and Section 25 shall become effective as provided in that section. No annexation where a resolution of intent was adopted prior to the date of ratification of this act shall be affected by this act except as provided in Section 25.

In the General Assembly read three times and ratified, this the 29th day of June, 1983.

H. B. 115 CHAPTER 637

AN ACT TO PROVIDE FOR THE LICENSING OF RESIDENTIAL GROUP CARE FACILITIES FOR CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131D-5 is repealed.

Sec. 2. Chapter 131D is amended by inserting a new Article 1A to read:

"ARTICLE 1A.

"Control Over Child Placing and Child Care.

"§ 131D-10.1. *Purpose.*—It is the policy of this State to strengthen and preserve the family as a unit. When a child requires care outside the family unit, it is the duty of the State to assure that the quality of substitute care is as close as possible to the care and nurturing that society expects of a family.

The purpose of this Article is to assign the authority to protect the health, safety and well-being of children separated from or being cared for away from their families.

"§ 131D-10.2. *Definitions.*—For purposes of this Article, unless the context clearly implies otherwise:

(1) 'Adoption' means the act of creating a legal relationship between parent and child where it did not exist genetically.

(2) 'Adoptive Home' means a family home approved by a child placing agency to accept a child for adoption.

(3) 'Child' means an individual less than 18 years of age, who has not been emancipated under the provisions of Article 56 of Chapter 7A of the General Statutes.

(4) 'Child Placing Agency' means a person authorized by statute or license under this Article to receive children for purposes of placement in residential group care, family foster homes or adoptive homes.

(5) 'Children's Camp' means a residential child-care facility which provides foster care at either a permanent camp site or in a wilderness setting.

(6) 'Commission' means the Commission for Social Services.

(7) 'Department' means the Department of Human Resources.

(8) 'Family Foster Home' means the private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship or adoption.

(9) 'Foster Care' means the continuing provision of the essentials of daily living on a 24-hour basis for dependent, neglected, abused, abandoned, destitute, orphaned, undisciplined or delinquent children or other children who, due to similar problems of behavior or family conditions, are living apart from their parents, relatives, or guardians in a family foster home or residential child-care facility. The essentials of daily living include but are not limited to shelter, meals, clothing, education, recreation, and individual attention and supervision.

(10) 'Person' means an individual, partnership, joint stock company, trust, voluntary association, corporation, agency, or other organization or enterprise doing business in this State, whether or not for profit.

(11) 'Primarily Educational Institution' means any institution which operates one or more scholastic or vocational education programs that can be offered in satisfaction of compulsory school attendance laws, in which the primary purpose of the housing and care of children is to meet their educational needs, provided such institution has complied with Article 39 of Chapter 115C of the General Statutes.

(12) 'Provisional License' means a type of license granted by the Department to a person who is temporarily unable to comply with a rule or rules adopted under this Article.

(13) 'Residential Child-Care Facility' means a staffed premise with paid or volunteer staff where children receive continuing full-time foster care. Residential child-care facility includes child-caring institutions, group homes, and children's camps which provide foster care.

"§ 131D-10.3. *Licensure required.*—(a) No person shall operate, establish or provide foster care for children or receive and place children in residential care

facilities, family foster homes, or adoptive homes without first applying for a license to the Department and submitting the required information on application forms provided by the Department.

(b) Persons licensed or seeking a license under this Article shall permit the Department access to premises and information required to determine whether the person is in compliance with licensing rules of the Commission.

(c) Persons licensed pursuant to this Article shall be periodically reviewed by the Department to determine whether they comply with Commission rules and whether licensure shall continue.

(d) This Article shall apply to all persons intending to organize, develop or provide foster care for children or receive and place children in residential child-care facilities, family foster homes or adoptive homes irrespective of such persons having applied for or obtained a certification, registration or permit to carry on work not controlled by this Article except persons exempted in G.S. 131D-10.4.

(e) Unless revoked or modified to a provisional or suspended status, the terms of a license issued by the Department shall be in force for a period not to exceed 24 months from the date of issuance under rules adopted by the Commission.

(f) Persons licensed or seeking a license who are temporarily unable to comply with a rule or rules may be granted a provisional license. The provisional license can be issued for a period not to exceed six months. The noncompliance with a rule or rules shall not present an immediate threat to the health and safety of the children, and the person shall have a plan approved by the Department to correct the area(s) of noncompliance within the provisional period. A provisional license for an additional period of time to meet the same area(s) of noncompliance shall not be issued.

(g) In accordance with Commission rules, a person may submit to the Department documentation of compliance with the standards of a nationally recognized accrediting body, and the Department on the basis of such accreditation may deem the person in compliance with one or more Commission licensing rules.

"§ 131D-10.4. *Exemptions.*—This Article shall not apply to:

(1) Any residential child-care facility chartered by the laws of the State of North Carolina (or operating under charters of other states which have complied with the corporation laws of North Carolina) which has a plant and assets worth sixty thousand dollars ($60,000) or more and which is owned or operated by a religious denomination or fraternal order and which was in operation before July 1, 1977;

(2) State institutions for emotionally disturbed or delinquent children, the mentally ill, mentally retarded, and substance abusers;

(3) Secure detention facilities as specified in Article 5 of Chapter 134A of the General Statutes;

(4) Treatment programs subject to the rules of the Commission for Mental Health, Mental Retardation and Substance Abuse Services as specified in Article 1A of Chapter 122 of the General Statutes;

(5) Persons authorized by statute to receive and place children for foster care and adoption in accordance with G.S. 108A-14;

(6) Primarily educational institutions as defined in G.S. 131D-10.2(11); or

(7) Individuals who are related by blood, marriage, or adoption to the child.

"§ 131D-10.5. *Powers and duties of the Commission.*—In addition to other powers and duties prescribed by law, the Commission shall exercise the following powers and duties:

(a) Adopt, amend and repeal rules consistent with the laws of this State and the laws and regulations of the federal government to implement the provisions and purposes of this Article;

(b) Issue declaratory rulings as may be needed to implement the provisions and purposes of this Article;

(c) Adopt rules governing procedures to appeal Department decisions pursuant to this Article granting, denying, suspending or revoking licenses; and

(d) Adopt criteria for waiver of licensing rules adopted pursuant to this Article.

"§ 131D-10.6. *Powers and duties of the Department.*—In addition to other powers and duties prescribed by law, the Department shall exercise the following powers and duties:

(a) Investigate applicants for licensure to determine whether they are in compliance with licensing rules adopted by the Commission and the provisions of this Article.

(b) Grant a license when an investigation shows compliance with this Article and Commission rules. The license shall be valid for a period not to exceed 24 months as specified by Commission rules and may be revoked or placed in suspended or provisional status sooner if the Department finds that licensure rules are not being met or upon a finding that the health, safety or welfare of children is threatened.

(c) Administer and enforce the provisions of this Article and the rules of the Commission.

(d) Appoint hearing officers to conduct appeals pursuant to this Article.

(e) Prescribe the form in which application for licensure shall be submitted.

(f) Inspect facilities and obtain records, documents and other information necessary to determine compliance with the provisions of this Article and Commission rules.

(g) Grant, deny, suspend or revoke a license or a provisional license, in accordance with Commission rules.

(h) Grant a waiver for good cause to Commission rules that do not affect the health, safety, or welfare of children in facilities subject to licensure under this Article, in accordance with Commission rules.

"§ 131D-10.7. *Penalties.*—Any person who establishes or provides foster care for children or who receives and places children in residential child-care facilities, family foster homes or adoptive homes without a license shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.

"§ 131D-10.8. *Injunction.*—(a) Notwithstanding the existence or pursuit of any other remedy, the Department may, in the manner provided by law, maintain an action in the name of the State for injunction or other process against any person to restrain or prevent the establishment, conduct, management or operation of a facility operating without a license or in a manner that threatens the health, safety or welfare of the individuals in the facility.

(b) If any person shall interfere with the proper performance or duty of the Department in carrying out this Article, the Department may institute an action in the superior court of the county in which the interference occurred for injunctive relief against the continued interference, irrespective of all other remedies at law.

"§ 131D-10.9. *Appeals.*—All procedures arising out of this Article, including all notification, hearing and appeal procedures, shall be governed by the appropriate provisions of Chapter 150A of the Administrative Procedure Act."

Sec. 3. G.S. 110-49 is repealed.

Sec. 4. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 29th day of June, 1983.

H. B. 124 CHAPTER 638

AN ACT TO EXPAND THE USE OF OUTPATIENT INVOLUNTARY COMMITMENTS FOR THE MENTALLY ILL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.1 is amended on line 1 as set out in the 1981 Replacement Volume 3B of the General Statutes by deleting the word "a" and inserting in its place the language "an inpatient".

Sec. 2. G.S. 122-58.2 is amended by adding a new subsection (8) as follows:

"(8) 'Outpatient Treatment' may include medication; individual or group therapy; day or partial day programming activities; services and training including educational and vocational activities; supervision of living arrangements; and any other services prescribed to either alleviate the person's illness or disability, to maintain semi-independent functioning, or to prevent further deterioration that may reasonably be predicted to result in the need for inpatient commitment to a mental health facility."

Sec. 3. G.S. 122-58.3(b) is amended by inserting between the words "law enforcement officer" and "to" the words "or any other person authorized under G.S. 122-58.14".

Sec. 4. G.S. 122-58.3(d) is rewritten as follows:

"(d) If the affiant is a qualified physician, he may execute the affidavit before any official authorized to administer oaths. He is not required to appear before the clerk or magistrate for this purpose. His examination shall comply with the requirements of the initial examination as provided in G.S. 122-58.4(b) and (c). If the physician petitioner's recommendation is for inpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, he shall issue an order for transportation to or custody at a treatment facility described in G.S. 122-58.4(c)(1). If a physician executes an affidavit for inpatient commitment of a respondent, a second qualified physician shall be required to perform the examination required by G.S. 122-58.6."

Sec. 5. G.S. 122-58.3 is amended by adding a new subsection (d1) as follows:

"(d1) Upon receipt of the custody order of the clerk or magistrate or a custody order issued by the court pursuant to G.S. 15A-1003 or G.S. 15A-1321, a law

enforcement officer or other person designated in the order, within 24 hours after the order is signed, shall take the respondent into custody."

Sec. 6. Subsections (a) and (c) of G.S. 122-58.4 are rewritten and a new subsection (b1) is added as follows:

"(a) Without unnecessary delay after assuming custody the person designated by the clerk or magistrate to provide transportation shall take the respondent to a community mental health center for examination by a qualified physician; if a qualified physician is not available in the community mental health center, he shall take the respondent to any qualified physician locally available. If a physician is not immediately available, the respondent may be temporarily detained in a community mental health facility, if one is available; if such facility is not available, he may be detained, under appropriate supervision, in his home, in a private hospital or a clinic, in a general hospital, or in a regional mental health facility, but not in a jail or other penal facility.

(b1) The qualified physician shall examine the respondent as soon as possible, and in any event within 24 hours, after the respondent is presented for examination. The examination shall include but is not limited to an assessment of the respondent's:

(1) current and previous mental illness, inebriety or mental retardation; including, if available, previous treatment history;

(2) dangerousness to self or others as defined in G.S. 122-58.2(1);

(3) ability to survive safely without hospitalization, including the availability of supervision from family, friends or others; and

(4) capacity to make an informed decision concerning treatment.

(c) After the conclusion of the examination the physician shall determine which of the following conditions exist:

(1) If the physician finds that the respondent is mentally ill or an inebriate, and is dangerous to himself or others, or is mentally retarded, and because of an accompanying behavior disorder, is dangerous to others, he shall recommend hospitalization, and he shall so indicate on the physician's examination report. The law enforcement officer or other designated person shall take the respondent to a community mental health inpatient facility or public or private inpatient facility designated or licensed by the Department of Human Resources for temporary custody, observation, and treatment of mentally ill or inebriate persons pending a district court hearing. If there is no community mental health inpatient facility so designated and if the respondent is indigent and unable to pay for his care at a private inpatient facility, the law enforcement officer or other designated person shall take the respondent to a regional psychiatric facility designated by the Division of Mental Health, Mental Retardation, and Substance Abuse Services for custody, observation, and treatment, and immediately notify the clerk of superior court of his actions.

(2) If the physician finds that:

a. the respondent is mentally ill, and

b. the respondent is capable of surviving safely in the community with available supervision from family, friends or others, and

c. based on the respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or

deterioration which would predictably result in dangerousness as defined by G.S. 122-58.2(1), and

d. his current mental status or the nature of his illness limits or negates his ability to make an informed decision to voluntarily seek or comply with recommended treatment, the physician shall so indicate on the physician's examination report and shall recommend outpatient commitment. In addition the examining physician shall indicate the name, address, and telephone number of the proposed outpatient treatment physician or center. The person designated in the order to provide transportation shall return the respondent to his regular residence or to the home of a consenting person, and he shall be released from custody.

(3) If the physician finds that neither condition described in subdivisions (1) or (2) of this subsection exists, the respondent shall be released and the proceedings terminated.

Sec. 7. G.S. 122-58.4 is amended by adding a new subsection (e) as follows:

"(e) When outpatient commitment is recommended, the examining physician, if different from the proposed outpatient treatment physician, shall give the respondent a written notice listing the name, address, and telephone number of the proposed outpatient treatment physician or center and directing the respondent to appear at the address at a specified date and time. The examining physician before the appointment shall notify by telephone and shall send a copy of the notice and his examination report to the designated treatment physician or center."

Sec. 8. G.S. 122-58.5 as set out in the 1981 Replacement Volume 3B of the General Statutes is amended on lines 3 and 4 by deleting the words "the clerk of superior court" and inserting "and that hospitalization is recommended, the clerk of superior court of the county where the treatment facility is located" and by designating the present section as subsection (a) and by adding a new subsection (b) as follows:

"(b) Upon receipt of a qualified physician's finding that the respondent meets the criteria of G.S. 122-58.4(c)(2) and that outpatient commitment is recommended, the clerk of superior court of the county where the petition was initiated, upon direction of a district court judge, shall calendar the matter for hearing and shall notify at least 48 hours in advance, the respondent, the proposed outpatient treatment physician or center and the petitioner of the time and place of the hearing."

Sec. 9. G.S. 122-58.6 is amended by rewriting the title as follows:

"*Inpatient commitment; examination and treatment pending hearing*", and by deleting the citation "G.S. 122-58.4(c)" and inserting in its place "G.S. 122-58.4(c)(1)", and by adding a new sentence between the first and second sentences of subsection (a) as follows: "The examination must include but is not limited to the assessment specified in G.S. 122-58.4(b1)."

Sec. 10. G.S. 122-58.6(a) is amended by deleting the third and fourth sentences and inserting in their place the following:

"If the qualified physician finds that the respondent meets the criteria under G.S. 122-58.4(c)(2), he shall indicate his findings on the physician's examination report, release the respondent pending the district court hearing and notify the clerk of superior court of the county where the petition was initiated of his

findings. In addition the examining physician shall indicate on the examination report the name, address and telephone number of the proposed outpatient treatment physician or center. He shall give the respondent a written notice listing the name, address and telephone number of the proposed outpatient treatment physician or center and directing the respondent to appear at that address at a specified date and time. The examining physician before the appointment shall notify by telephone and shall send a copy of the notice and his examination report to the proposed outpatient treatment physician or center. If the qualified physician finds that the respondent does not meet the criteria for commitment under either G.S. 122-58.4(c)(1) or G.S. 122-58.4(c)(2), he shall release the respondent and the proceedings shall be terminated. If released, the law enforcement officer or other person designated to provide transportation shall return the respondent to the originating county."

Sec. 11. Chapter 122 of the General Statutes is amended by adding a new section G.S. 122-58.6A as follows:

"§ 122-58.6A. *Outpatient commitment; examination and treatment pending hearing.*—(a) If a respondent who has been recommended for outpatient commitment by an examining physician different from the proposed outpatient treatment physician or center fails to appear for examination by the proposed outpatient treatment physician or center at the designated time, the physician or center shall notify the clerk of superior court, who shall issue an order to a law enforcement officer or other person authorized under G.S. 122-58.14 to take the respondent into custody and take him immediately to the treatment physician or center for evaluation.

(b) The examining physician or the proposed outpatient treatment physician may prescribe to the respondent reasonable and appropriate medication and treatment that are consistent with accepted medical standards pending the district court hearing.

(c) In no event may a respondent released on a recommendation that he meets the outpatient commitment criteria be physically forced to take medication or forcibly detained for treatment pending a district court hearing. If a respondent becomes dangerous to himself or others pending a district court hearing on outpatient commitment, new proceedings for involuntary inpatient commitment may be initiated.

(d) If an inpatient commitment proceeding is initiated pending the hearing for outpatient commitment and the respondent is admitted to an inpatient facility to be held for an inpatient commitment hearing, the outpatient commitment proceeding shall be terminated and notice sent by the clerk of court in the county where the respondent is being held to the clerk of court of the county where the outpatient commitment was initiated."

Sec. 12. G.S. 122-58.7 is amended by rewriting the title as follows: "*Inpatient commitment; district court hearing.*", and by rewriting the second sentence of subsection (a) as follows: "Upon the court's motion or upon motion of the respondent's counsel, sufficiently in advance to avoid movement of the respondent, a continuance of not more than five days may be granted.", and is further amended on line 1 of subsection (i) as set out in the 1981 Replacement Volume 3B of the General Statutes by deleting the word "a" and inserting in its place the words "an inpatient".

Sec. 13. Chapter 122 of the General Statutes is amended by redesignating G.S. 122-58.7A as G.S. 122-58.7B by adding a new section G.S. 122-58.7A as follows:

"§ 122-58.7A. *Outpatient commitment; district court hearing.*—(a) A hearing shall be held in district court within 10 days of the day the respondent is taken into custody pursuant to G.S. 122-58.3(e). Upon its own motion or upon motion of the proposed outpatient treatment physician or the respondent, the court may grant a continuance of not more than five days.

(b) The respondent must be present at the hearing. The petitioner and the proposed outpatient treatment physician or his designee may be present and may provide testimony.

(c) Certified copies of reports and findings of qualified physicians and medical records of previous and current treatment are admissible in evidence.

(d) At the hearing to determine the necessity and appropriateness of outpatient commitment, the respondent need not, but may, be represented by counsel. Provided, however, if the court determines that the legal or factual issues raised are of such complexity that the assistance of counsel is necessary for an adequate presentation of the merits or that the respondent is unable to speak for himself the court may continue the case for not more than five days and order the appointment of counsel for an indigent.

(e) Hearings may be held at the community mental health center in which the respondent is being treated, if it is located within the judge's judicial district, or in the judge's chambers. A hearing may not be held in a regular courtroom, over objection of the respondent, if in the discretion of a judge, a more suitable place is available.

(f) The hearing shall be closed to the public, unless the respondent requests otherwise.

(g) A copy of all documents admitted shall be furnished by the clerk to the respondent on request.

(h) To support an outpatient commitment order, the court is required to find by clear, cogent and convincing evidence that the respondent meets the criteria specified in G.S. 122-58.4(c)(2). The court shall record the facts which support its findings and shall indicate on the order the center or person who is responsible for the management and supervision of the respondent's outpatient treatment."

Sec. 14. G.S. 122-58.8 is rewritten as follows:

"§ 122-58.8. *Disposition.*—(a) If the respondent has been held in an inpatient facility pending the district court hearing, the court may make one of the following dispositions:

(1) If the court finds by clear, cogent, and convincing evidence that the respondent is mentally ill or inebriate and is dangerous to himself or others, or is mentally retarded and, because of an accompanying behavior disorder, is dangerous to others, it may order inpatient treatment or a combination of inpatient treatment and outpatient treatment for a period not in excess of 90 days, at a mental health facility, public or private, designated or licensed by the Department of Human Resources. If the commitment proceedings were initiated as the result of the respondent's being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found not guilty by reason of insanity or incapable of proceeding,

the commitment order shall so indicate. If the court orders inpatient commitment for a respondent who is under an outpatient commitment order, the outpatient commitment is terminated and the clerk of the superior court of the county where the district court hearing is held shall send a notice of the inpatient commitment to the clerk of superior court where the outpatient commitment was being supervised.

(2) If the court finds by clear, cogent, and convincing evidence that the respondent is mentally ill; that he is capable of surviving safely in the community with available supervision from family, friends or others; that based on respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration which would predictably result in dangerousness as defined by G.S. 122-58.2(1); and that the respondent's current mental status or the nature of his illness limits or negates his ability to make an informed decision to voluntarily seek or comply with recommended treatment, it may order outpatient commitment for a period not in excess of 90 days. If the commitment proceedings were initiated as the result of the respondent's being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found not guilty by reason of insanity or incapable of proceeding, the commitment order shall so indicate.

(3) If the court does not find that the respondent meets either of the commitment criteria set out in subdivisions (1) and (2) of this subsection, the respondent shall be discharged and the facility in which he was last a patient so notified.

(4) Before ordering any outpatient commitment, the court shall make findings of fact as to the availability of outpatient treatment. The court shall also indicate on the order the outpatient treatment physician or center who is to be responsible for the management and supervision of the respondent's outpatient commitment. The court shall order venue for further court proceedings to be transferred to the county where the outpatient commitment will be supervised. When an outpatient commitment order is issued for a respondent held in an inpatient facility, the court may order the respondent to be held at the facility for no longer than 72 hours in order for the treatment facility to notify the designated outpatient treatment physician or center of the treatment needs of the respondent. The facility shall send a copy of the outpatient commitment order to the designated outpatient treatment physician or center. Upon an order changing venue, the clerk of superior court of the county where the facility is located shall transfer a copy of the order of outpatient commitment to the clerk of superior court of the county where the outpatient treatment is to be supervised.

(b) If an examining physician has recommended outpatient commitment and the respondent has been released pending the district court hearing, the court may make one of the following dispositions:

(1) If the court finds by clear, cogent, and convincing evidence that the respondent is mentally ill; that he is capable of surviving safely in the community with available supervision from family, friends or others; that based on respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration

which would predictably result in dangerousness as defined in G.S. 122-58.2(1); and that the respondent's current mental status or the nature of his illness limits or negates his ability to make an informed decision to voluntarily seek or comply with recommended treatment, it may order outpatient treatment for a period not in excess of 90 days.

(2) If the court does not find that the respondent meets the criteria of commitment set out in subdivision (1) of this subsection, the respondent shall be discharged and the facility at which he was last a patient so notified.

(c) Treatment at a private facility or by a private physician shall be at the expense of the respondent to the extent that such charges are not disposed of by contract between the area mental health, mental retardation, and substance abuse authority and the private facility. The area mental health, mental retardation, and substance abuse authorities are authorized to set fees for inpatient or outpatient treatment services provided under a commitment order in accordance with G.S. 122-35.47."

Sec. 15. Chapter 122 of the General Statutes is amended by adding a new section G.S. 122-58.8A as follows:

"§ 122-58.8A. *Immunity from liability.*—None of the facilities or centers described in G.S. 122-58.2(5) (6) and (7), or any of the officials, staff or employees thereof, or any physician or other individual who is responsible for the management, supervision and treatment of a respondent's outpatient commitment shall be financially liable, personally or otherwise, for actions of the respondent if such entities, physicians or individuals follow accepted professional judgement, practice and standards in the management, supervision and treatment of the respondent. This immunity is in addition to any other legal immunity from liability to which these entities, physicians or other individuals may be entitled."

Sec. 16. Chapter 122 of the General Statutes is amended by adding a new section G.S. 122-58.10A as follows:

"§ 122-58.10A. *Duties for follow-up on commitment order.*—(a) If the commitment order directs inpatient treatment, the qualified physician attending the respondent is authorized to administer to the respondent reasonable and appropriate medication and treatment that is consistent with accepted medical standards. Provided, however, when a respondent refuses medication, he shall be afforded the protections provided by the rules adopted by the Commission for Mental Health, Mental Retardation and Substance Abuse Services in force at the time of providing treatment regarding a patient's right to refuse treatment. The qualified physician attending the respondent shall release or discharge the respondent in accordance with G.S. 122-58.13.

(b) If the commitment order directs outpatient treatment, the outpatient treatment physician is authorized to prescribe or administer to the respondent reasonable and appropriate medication and treatment that is consistent with accepted medical standards.

(1) If the respondent fails to comply or clearly refuses to comply with all or part of the prescribed treatment, the physician or his designee shall make all reasonable effort to solicit the respondent's compliance. Such efforts shall be documented and reported to the court with a recommendation to the court whether the respondent should (1) have his case dismissed or (2) be given a supplemental hearing.

(2) If the respondent fails to comply, but does not clearly refuse to comply, with all or part of the prescribed treatment after reasonable effort to solicit the respondent's compliance, the physician or his designee may request the court to order the respondent taken into custody for the purpose of examination. Upon receipt of such a request, the clerk shall issue an order to a law enforcement officer to take the respondent into custody and to take him immediately to the designated outpatient treatment physician or center for examination. The law enforcement officer shall turn the respondent over to the custody of the physician or center who shall conduct the examination and then release the respondent.

(3) In no case may the respondent be physically forced to take medication or forcibly detained for treatment unless he poses an immediate danger to himself or others. In such cases inpatient commitment proceedings shall be initiated.

(4) At any time that the outpatient treatment physician finds that the respondent no longer meets the criteria set out in G.S. 122-58.4(c)(2), the physician shall so notify the court and the case shall be dismissed. Provided, however, if the respondent was initially committed as a result of conduct resulting in his being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found not guilty by reason of insanity or incapable of proceeding, the designated outpatient treatment physician or center shall notify the clerk that discharge is recommended. The clerk shall calendar a supplemental hearing as provided in G.S. 122-58.10B to determine whether the respondent meets the criteria for outpatient commitment.

(5) Any person who has knowledge that a respondent on outpatient commitment has become dangerous to self or others as defined by G.S. 122.58.2(1) may initiate a new petition for inpatient commitment as provided in this Article.

(c) If the respondent on outpatient commitment intends to move or moves to another county within the State, the designated outpatient treatment physician or center shall notify the clerk of court in the county where the outpatient commitment is being supervised. The clerk shall calendar a supplemental hearing within 10 days and give notice of the hearing to the petitioner, the designated outpatient treatment physician or center, and the respondent. At the supplemental hearing, the court shall determine if the respondent meets the criteria for outpatient commitment set out in G.S. 122-58.4(c)(2). If the court determines that the respondent no longer meets the criteria for outpatient commitment, it shall discharge the respondent from the order and dismiss the case. If the court determines that the respondent continues to meet the criteria for outpatient commitment, it shall continue the outpatient commitment but shall designate a physician or center at the respondent's new residence to be responsible for the management or supervision of the respondent's outpatient commitment. The court shall order the respondent to appear for treatment at the address of the newly designated outpatient treatment physician or center and shall order venue for further court proceedings under the outpatient commitment to be transferred to the new county of supervision. Upon an order changing venue, the clerk of court in the county where the outpatient commitment has been supervised shall transfer the records regarding the

outpatient commitment to the clerk of court in the county where the commitment will be supervised. Also, the clerk of court in the county where the outpatient commitment has been supervised shall send a copy of the court's order directing the continuation of outpatient treatment under new supervision to the newly designated outpatient treatment physician or center.

If the respondent moves to another state, the designated outpatient treatment physician or center shall notify the clerk of superior court of the county where the outpatient commitment is supervised and the outpatient commitment shall be terminated.

(d) The clerk of superior court of the county where outpatient commitment is to be supervised shall keep a separate list regarding outpatient commitment and shall prepare quarterly reports listing all active cases, the assigned supervisor and the disposition of all hearings, supplemental hearings and rehearings."

Sec. 17. Chapter 122 of the General Statutes is amended by adding a new section G.S. 122-58.10B as follows:

"§ 122-58.10B. *Outpatient commitment; supplemental hearings.*—(a) Upon receipt of a request for a supplemental hearing, the clerk shall calendar a hearing to be held within 14 days and notify, at least 48 hours in advance of the hearing, the petitioner, the respondent, his attorney, if any, and the designated outpatient treatment physician or center. The respondent shall be notified by personally serving on him an order to appear. The procedures for the hearing shall follow G.S. 122-58.7A. In hearings for alleged noncompliance, the court must determine whether the respondent has failed to comply and, if so, the causes for noncompliance. If the court determines that the respondent has failed or refused to comply it may:

(1) upon finding probable cause to believe that the respondent is mentally ill and dangerous to himself or others, order an examination by the same or different qualified physician as provided in G.S. 122-58.4(b1) and (c) in order to determine the necessity for continued outpatient or inpatient commitment;

(2) reissue or modify the outpatient commitment order in compliance with G.S. 122-58.8; or

(3) discharge the respondent from the order and dismiss the case.

(b) At any time during the term of an outpatient commitment order, a respondent may apply to the court for a supplemental hearing for the purpose of discharge from the order. Such application must be made in writing to the clerk of superior court."

Sec. 18. G.S. 122-58.11 is amended by rewriting the title as follows: "*Inpatient commitment; rehearings.*", and by rewriting subsection (d) as follows: "(d) At rehearings the court may make the same dispositions authorized in G.S. 122-58.8(a) except a second commitment order may be for an additional period not in excess of 180 days."

Sec. 19. G.S. 122-58.11 is amended by repealing subsection (f) and by adding a new subsection (g) to read as follows: "(g) At any and all rehearings the court has the option to order outpatient commitment for a period not in excess of 180 days in accordance with the criteria specified in G.S. 122-58.4(c)(2) and following the procedures as specified in this Article."

Sec. 20. Chapter 122 of the General Statutes is amended by adding a new section G.S. 122-58.11A as follows:

"§ 122-58.11A. *Outpatient commitment; rehearings.*—(a) Fifteen days before the end of the initial or subsequent periods of outpatient commitment if the outpatient treatment physician determines that the respondent continues to meet the criteria specified in G.S. 122-58.4(c)(2), he shall so notify the clerk of superior court of the county where outpatient treatment is supervised. If the respondent no longer meets the criteria, the physician shall so notify the clerk who shall dismiss the case. Provided, however, if the respondent was initially committed as a result of conduct resulting in his being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found not guilty by reason of insanity or incapable of proceeding, the physician shall notify the clerk that discharge is recommended. The clerk shall calendar a supplemental hearing as provided in G.S. 122-58.10B. The clerk, at least 10 days before the end of the commitment period, on order of the district court, shall calendar the rehearing and shall notify the petitioner, the respondent, his attorney, if any, and the designated outpatient treatment physician or center of the time and place of the hearing.

(b) Rehearings are governed by the same procedures as initial hearings, and the respondent has the same rights he had at the initial hearing, including the right to appeal.

(c) If the court finds that the respondent no longer meets the criteria of G.S. 122-58.4(c)(2), it shall unconditionally discharge him. A copy of the discharge order shall be furnished by the clerk to the designated outpatient treatment physician or center. If the respondent continues to meet the criteria of G.S. 122-58.4(c)(2), the court may order outpatient commitment for an additional period not in excess of 180 days."

Sec. 21. G.S. 122-58.13(a) is amended by adding a new sentence between the first and second sentences as follows: "However, if the chief of medical services of the inpatient facility determines that the patient meets the criteria for outpatient commitment as defined in G.S. 122-58.4(c)(2), he may request the clerk to calendar a supplemental hearing to determine whether an outpatient commitment order shall be issued."

Sec. 22. G.S. 122-8.1 is amended by adding a new subsection (g) as follows:

"(g) Notwithstanding the provisions of subsections (a) and (c) of this section, or any other statutory provisions contained in the North Carolina General Statutes, facilities, centers, physicians and other individuals responsible for the management, supervision and treatment of respondents committed for outpatient treatment under the provisions of Article 5A of this Chapter shall be authorized to disclose, request, and receive information necessary to enable them to fulfill their responsibilities."

Sec. 23. G.S. 7A-451(a)(6) is rewritten as follows:

"(6) A proceeding for an inpatient involuntary commitment to a treatment facility under Article 5A of Chapter 122."

Sec. 24. Chapter 7A of the General Statutes is amended by adding a new G.S. 7A-451.1 as follows:

"§ 7A-451.1. *Counsel fees for outpatient involuntary commitment proceedings.*—The State shall pay counsel fees for persons appointed pursuant to G.S. 122-58.7A."

Sec. 25. If any section, paragraph or clause of this act is declared unconstitutional by a court of competent jurisdiction, that judgement shall not affect or invalidate the remainder of the act, but is limited to the section, paragraph, or clause of this act that was declared unconstitutional.

Sec. 25.1. Section 10 of Chapter 380 of the 1983 Session Laws is repealed.

Sec. 26. This act shall become effective only if Senate Bill 116 "AN ACT TO APPROPRIATE FUNDS FOR THE PURPOSE OF IMPLEMENTING H.B. 124, INVOLUNTARY OUTPATIENT COMMITMENT" is ratified on or before August 15, 1983, or if funds to implement this act are appropriated in "AN ACT TO MAKE APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES" on or before August 15, 1983.

Sec. 27. Except as provided in Section 26, this act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 29th day of June, 1983.

H. B. 356 CHAPTER 639

AN ACT TO DELAY THE EFFECTIVE DATE FOR THE REMOVAL OF JUVENILES FROM JAILS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-576(c) is amended by deleting the language "Until July 1, 1983" at the beginning of the subsection and replacing it with the following: "Until July 1, 1984".

Sec. 2. G.S. 7A-576(d) is rewritten to read:

"(d) Subsection (c) expires on June 30, 1984."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1983.

H. B. 413 CHAPTER 640

AN ACT TO MAKE AMENDMENTS TO THE EQUITABLE DISTRIBUTION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-20(b)(1) is rewritten to read as follows:

"(1) 'Marital property' means all real and personal property acquired by either spouse or both spouses during the course of the marriage and before the date of the separation of the parties, and presently owned, except property determined to be separate property in accordance with subdivision (2) of this section."

Sec. 2. The third sentence of G.S. 50-20(b)(2) is rewritten as follows:

"Property acquired in exchange for separate property shall remain separate property regardless of whether the title is in the name of the husband or wife or both and shall not be considered to be marital property unless a contrary intention is expressly stated in the conveyance."

Sec. 3. This act shall become effective on August 1, 1983, and includes those actions pending in the District Court Division on the effective date thereof.

In the General Assembly read three times and ratified, this the 29th day of June, 1983.

H. B. 856 CHAPTER 641

AN ACT TO CLARIFY THE DEFINITION OF "RULE" FOR PURPOSES OF ADMINISTRATIVE PROCEDURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 150A-2 is amended by adding a new subsection (8a) which reads as follows:

"(8a) 'Rule' means each agency regulation, standard or statement of general applicability that implements or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include the following:

(a) Statements concerning only the internal management of an agency and not affecting the private rights or procedures available to the public. The term 'rule', however, includes qualification for employment of any agency.

(b) Declaratory rulings issued pursuant to G.S. 150A-17;

(c) Intra-agency memoranda, except those to agency staff which implement or prescribe law or policy;

(d) Statements of policy or interpretations that are made in the decision of a contested case;

(e) Policies, if communicated to the public by use of signs or symbols, concerning

(i) the use or creation of public roads and bridges;

(ii) the areas of public facilities and times when public facilities are open to the public; or

(iii) safety in use of public facilities.

(f) Interpretative rules and general statements of policy of the agency; or

(g) Orders establishing or fixing rates or tariffs."

Sec. 2. G.S. 150A-10 is repealed.

Sec. 3. G.S. 150A-14 is amended by adding a new subdivision 3 to read:

"(3) Any plan, material, manual, guide or other document establishing job application or employment practices or procedures of any State agency other than the State Personnel Commission. The State Personnel Commission, however, shall incorporate by reference in its rules job classification standards, including but not limited to those relating to qualifications and salary levels."

Sec. 4. G.S. 150A-58(b) is repealed.

Sec. 5. The catch line of G.S. 150A-59 and the first sentence of subsection (a) of that section are rewritten to read:

"§ 150A-59. Filing of rules and executive orders.—(a) Rules adopted by an agency on or after February 1, 1976, and executive orders of the Governor shall be filed with the Attorney General."

Sec. 6. Subsection (a) of G.S. 150A-63 is rewritten to read:

"(a) The Attorney General shall compile, index and publish executive orders of the Governor and all rules filed and effective pursuant to the provisions of this Article."

Sec. 7. G.S. 120-30.24(5) is amended to read as follows:

"(5) 'Rule' means each agency regulation, standard or statement of general applicability that implements or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include the following:

(a) Statements concerning only the internal management of an agency and not affecting the private rights or procedures available to the public. The term 'rule', however, includes qualification for employment of any agency.

(b) Declaratory rulings issued pursuant to G.S. 150A-17;

(c) Intra-agency memoranda, except those to agency staff which implement or prescribe law or policy;

(d) Statements of policy or interpretations that are made in the decision of a contested case;

(e) Policies, if communicated to the public by use of signs or symbols, concerning

(i) the use or creation of public roads and bridges;

(ii) the areas of public facilities and times when public facilities are open to the public; or

(iii) safety in use of public facilities.

(f) Interpretative rules and general statements of policy of the agency; or

(g) Orders establishing or fixing rates or tariffs."

Sec. 8. G.S. 143B-10(j)(3), as contained in Chapter 76 of the 1983 Session Laws, First Session 1983, is rewritten to read:

"(3) policies, consistent with law and with rules established by the Governor and with rules of the State Personnel Commission, which reflect internal management procedures within the department. These may include policies governing the conduct of employees of the department, the distribution and performance of business and internal management procedures which do not affect private rights or procedures available to the public and which are listed in (e) of this section. Policies establishing qualifications for employment shall be adopted and filed pursuant to Chapter 150A of the General Statutes; all other policies under this subdivision shall not be adopted or filed pursuant to Chapter 150A of the General Statutes."

Sec. 9. This act shall become effective January 1, 1984, except for Sections 8 and 9 of this act which are effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1983.

H. B. 1222 CHAPTER 642

AN ACT TO ALLOW COUNTY SERVICE DISTRICTS ESTABLISHED FOR FIRE PROTECTION PURPOSES TO ALSO FURNISH EMERGENCY MEDICAL, RESCUE AND AMBULANCE SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Article 16 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-309. *EMS Services in Fire Protection Districts.*—(a) If a service district is established under this Article for fire protection purposes under G.S. 153A-301(2), and it was not also established under this Article for ambulance and rescue purposes under G.S. 153A-301(7), the board of county commissioners may, by resolution, permit the service district to provide emergency medical, rescue, and/or ambulance services, and may levy property taxes for such purposes under G.S. 153A-307.

(b) The resolution expanding the purposes of the district under this section shall take effect at the beginning of a fiscal year commencing after its passage."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1983.

H. B. 502 CHAPTER 643

AN ACT TO AMEND G.S. 105-275 CONCERNING EXCLUSIONS FROM THE PROPERTY TAX BASE FOR POLLUTION CONTROL PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1244 of the 1981 Session Laws (1982 Regular Session) is repealed and the provisions of G.S. 105-275(8) as they existed on December 31, 1982, are reenacted.

Sec. 2. G.S. 105-275(8) is amended by adding a new subpart c. to read:

"c. Tangible personal property that is used exclusively, or if being installed, is to be used exclusively, for the prevention or reduction of cotton dust inside a textile plant for the protection of the health of the employees of the plant, in accordance with occupational safety and health standards adopted by the State of North Carolina pursuant to Article 16 of G. S. Chapter 95. The Department of Revenue shall adopt guidelines to assist the tax supervisors in administering this exclusion."

Sec. 3. This act is effective upon ratification and applies to taxable years beginning on and after January 1, 1983. Property meeting all of the conditions for exclusion under this act except the requirement of a permit or certificate, shall be eligible for the exclusion for 1983 if the owner of the property has filed a timely application for exclusion, and secures from the Environmental Management Commission and furnishes to the tax supervisor within 180 days after the date of the ratification of this act a copy of a permit or certificate as described in G.S. 105-275(8)a.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

H. B. 906 **CHAPTER 644**

AN ACT TO SET AN EARLIER FILING DEADLINE FOR CITIES THAT USE THE NONPARTISAN PLURALITY METHOD OF ELECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-294.2(c) is rewritten to read:

"(c) The filing periods for candidates seeking municipal offices shall be:

(1) In those municipalities which conduct primaries and elections in accordance with provisions in G.S. 163-291 candidates may file their notices of candidacy with the board of elections at any time after 12:00 noon on the eighth Friday and before 12:00 noon on the fifth Friday preceding the date on which the primary, if one is necessary, would be conducted;

(2) In those municipalities which conduct plurality elections in accordance with provisions in G.S. 163-292 candidates may file their notices of candidacy with the board of elections at any time after 12:00 noon on the tenth Friday and before 12:00 noon on the seventh Friday preceding the election;

(3) In those municipalities which conduct an election and runoff method in accordance with provisions in G.S. 163-293 candidates may file their notices of candidacy with the board of elections at any time after 12:00 noon on the eighth Friday and before 12:00 noon on the fifth Friday preceding the date the election is to be conducted;

(4) In those municipalities which conduct a nonpartisan primary and election method in accordance with provisions in G.S. 163-294 candidates may file their notices of candidacy with the board of elections at any time after 12:00 noon on the eighth Friday and before 12:00 noon on the fifth Friday preceding the date on which the primary, if one is necessary, would be conducted.

Notices of candidacy which are mailed must be received by the board of elections before the filing deadline regardless of the time they were deposited in the mails."

Sec. 2. G.S. 163-294.2(e) is amended by rewriting the first sentence to read: "The filing fee for the primary or election shall be fixed by the governing board not later than the day before candidates are permitted to begin filing notices of candidacy."

Sec. 3. G.S. 163-280(b) is amended by rewriting the first sentence up through the colon to read: "On the Monday before the filing period opens for elections in that municipality, the newly appointed members of the municipal board of elections shall meet at the city hall or some other place specified by the city council and shall take the following oath of office:".

Sec. 4. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

H. B. 911 **CHAPTER 645**

AN ACT TO PROVIDE THAT THE APPLICABLE COURT SHALL MAKE THE DIVISION OF THE SETTLEMENT OR JUDGMENT COSTS AMONG JOINT TORT-FEASORS IN ACTIONS BROUGHT UNDER THE WORKERS' COMPENSATION ACT WHEN THEY CANNOT AGREE AND PROVIDING FOR LIMITATIONS OF ITS APPLICABILITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-10.2 is amended by adding a new subsection to read:

"(j) In the event that a judgment is obtained which is insufficient to compensate the subrogation claim of the Workers' Compensation Insurance Carrier, or in the event that a settlement has been agreed upon by the employee and the third party when said action is pending on a trial calendar and the pretrial conference with the judge has been held, either party may apply to the resident superior court judge of the county in which the cause of action arose or the presiding judge before whom the cause of action is pending, for determination as to the amount to be paid to each by such third party tort-feasor. If the matter is pending in the federal district court such determination may be made by a federal district court judge of that division."

Sec. 2. G.S. 97-10.2(e) is amended to read:

"(e) The amount of compensation and other benefits paid or payable on account of such injury or death shall be admissible in evidence in any proceeding against the third party. In the event that said amount of compensation and other benefits is introduced in such a proceeding the court shall instruct the jury that said amount will be deducted by the court from any amount of damages awarded to the plaintiff. If the third party defending such proceeding, by answer duly served on the employer, sufficiently alleges that actionable negligence of the employer joined and concurred with the negligence of the third party in producing the injury or death, then an issue shall be submitted to the jury in such case as to whether actionable negligence of employer joined and concurred with the negligence of the third party in producing the injury or death. The employer shall have the right to appear, to be represented, to introduce evidence, to cross-examine adverse witnesses, and to argue to the jury as to this issue as fully as though he were a party although not named or joined as a party to the proceeding. Such issue shall be the last of the issues submitted to the jury. If the verdict shall be that actionable negligence of the employer did join and concur with that of the third party in producing the injury or death, then the court shall reduce the damages awarded by the jury against the third party by the amount which the employer would otherwise be entitled to receive therefrom by way of subrogation hereunder and the entire amount recovered, after such reduction, shall belong to the employee or his personal representative free of any claim by the employer and the third party shall have no further right by way of contribution or otherwise against the employer, except any right which may exist by reason of an express contract of indemnity between the employer and the third party, which was entered into prior to the injury to the employee. In the event that the court becomes aware that there is an express contract of indemnity between the employer and the third party the court may in the interest of justice exclude the employer from the trial of the claim against the third party and may meet the issue of the actionable negligence of the employer to the jury in a separate hearing."

Sec. 3. This act shall become effective October 1, 1983, and shall apply to actions initiated on or after that date.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

H. B. 918 CHAPTER 646

AN ACT TO MAKE INJURING LAW ENFORCEMENT AGENCY ANIMALS A GENERAL MISDEMEANOR.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to the General Statutes to read:

"§ 14-163.1. *Injuring or killing law enforcement agency animal.*—Any person who knows or has reason to know that an animal is used for law enforcement purposes such as investigation, detection of narcotics or explosives, or crowd control, by any law enforcement agency and who willfully and not in self defense, causes serious injury to or kills that animal is guilty of a misdemeanor and shall be fined or imprisoned, or both, in the discretion of the court."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

H. B. 1206 CHAPTER 647

AN ACT PERTAINING TO THE USE OF SCHOOL BUSES IN BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, the Brunswick County Board of Education may permit the use of school buses to transport persons not otherwise entitled to use a bus who are enrolled in a program designed to educate persons with special needs if the program is sponsored by Brunswick Technical College or Southeastern Mental Health Center in conjunction with the Brunswick County Schools. The cooperative program must share a common instructional facility in order for any person not enrolled in the public school system to be eligible for transportation as herein provided.

The Brunswick County Board of Education may permit the use and operation of buses as allowed by this act under rules and regulations they adopt.

For purposes of this act, a person with special needs is defined as any person who is mentally retarded or emotionally handicapped, without regard to age.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

H. B. 1227 CHAPTER 648

AN ACT TO AUTHORIZE CITY AND COUNTY CLERKS TO ADMINISTER OATHS OF OFFICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 11-7.1(a) is amended by changing the period at the end of subdivision (6) to a semicolon and adding a new subdivision to read:

"(7) The clerk of any county, city, town or incorporated village."

Sec. 2. The administration of an oath by any county, city or town clerk prior to date of ratification is hereby validated.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

H. B. 1241 CHAPTER 649

AN ACT TO PROVIDE THAT WHEN A VACANCY OCCURS IN THE OFFICE OF SHERIFF OF RICHMOND COUNTY, THE CLERK OF THE SUPERIOR COURT SHALL APPOINT A PERSON AS SHERIFF FROM THE SAME POLITICAL PARTY AS HIS PREDECESSOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162-5 is rewritten to read:

"§ 162-5. *Vacancy filled; duties performed by chief deputy.*—If any vacancy occurs in the office of sheriff, the chief deputy shall execute all process directed to the sheriff until the clerk of court shall elect a sheriff to supply the vacancy for the residue of the term, who shall possess the same qualifications, enter into the same bonds, and be subject to removal, as the sheriff regularly elected. If the sheriff was elected as a nominee of a political party, the clerk of superior court shall elect a person from that political party.

If there is no chief deputy, then the senior deputy in years of service, shall perform all the duties of the sheriff until the clerk of superior court appoints some person to fill the unexpired term. The regular deputy sheriffs shall, during the interim of the vacancy, continue to perform their duties with full authority."

Sec. 2. G.S. 162-3 is amended by deleting the word "board" the second time it appears and inserting in lieu thereof the words "clerk of superior court".

Sec. 3. This act applies only to Richmond County.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

H. B. 1139 CHAPTER 650

AN ACT SETTING THE DISTRIBUTION OF PROFITS FROM THE SALES OF BEER AND WINE IN TOWNSHIPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-113.86(p) is amended by inserting between the third and fourth sentences a new sentence to read:

"In any county in which ABC stores have been established by petition, any revenue distributed under this subsection shall be distributed as though the whole county had approved the retail sale of those beverages."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

H. B. 1199 CHAPTER 651

AN ACT TO CLARIFY THE POSITION OF COUNTY COMMISSIONERS SERVING ON OTHER BOARDS WHOSE MEMBERS ARE APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 128 of the General Statutes is amended by adding a new section to read:

"§ 128-1.2. *Ex officio service by county commissioners.*—Except when the resolution of appointment provides otherwise, whenever a board of county commissioners appoints one of its own members to another board or commission, the county commissioner so appointed is considered to be serving on the other board or commission as a part of the duties of his office of county commissioner and shall not be considered to be serving in a separate office."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

S. B. 308 CHAPTER 652

AN ACT TO ESTABLISH A NORTH CAROLINA ENERGY DEVELOPMENT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. This act may be referred to as the North Carolina Resource Recovery and Energy Facility Finance Act.

Sec. 2. The General Statutes are hereby amended by adding a new Chapter, G.S. 159F, to read as follows:

"North Carolina Energy Development Authority.

"§ 159F-1. *Public purpose.*—The purposes of this Chapter are to encourage the good management of solid waste and the conservation of natural resources through the promotion or development of facilities to collect, separate and reclaim solid waste for energy production purposes where economically feasible,

and to reduce the energy costs of public buildings and government operations by the development of resource recovery facilities and other energy-related facilities.

"§ 159F-2. *Legislative findings.*—(a) The people of the State of North Carolina have the right to a clean and wholesome environment.

(b) The continuing technological progress and improvement in the methods and processes of manufacture, packaging and marketing of consumer products have resulted in an ever mounting increase of and change in the characteristics of the mass of material being discharged. The economic and population growth of the State and the improvements in the standards of living enjoyed by its population have required increased industrial production together with related commercial operations to meet these needs, resulting in a rising tide of discharged materials.

(c) Maximum resource recovery from solid waste is necessary to protect the public health, welfare, and quality of the natural environment. The ability to economically recover energy resources from solid waste and from other available resources has become a logical and necessary function to be assumed by the North Carolina Energy Development Authority.

(d) The energy costs associated with the operation and maintenance of State and local government buildings are significant. Reduction of those energy costs through development of energy resources such as resource recovery facilities and through conservation is an overriding public purpose.

Therefore, to assist the development of resource recovery facilities and to reduce the energy costs of the operation and maintenance of public buildings, it is desirable to create an Energy Development Authority, with the powers enumerated herein. It is hereby determined and declared that it is necessary for the health and welfare of the inhabitants of the State that the energy generation facilities created by such Authority and serving a specified geographic area shall be used by public or private owners or occupants of all lands, buildings, and premises within said area, and a municipality may, by ordinance, require that all solid waste generated within said area and placed in the waste stream for disposal, shall be delivered to the permitted energy generation facility or facilities created by the Energy Development Authority. Actions taken pursuant to this Chapter shall be deemed to be acts of the sovereign power of the State of North Carolina, and to the extent reasonably necessary to achieve the purposes of this Chapter, a municipality may displace competition with public service for solid waste management and disposal. It is further determined and declared that no special purpose service district under the jurisdiction of the municipality or person, firm, corporation, association or entity within said geographic area shall engage in any activities which would be competitive with this purpose or with ordinances, rules or regulations adopted pursuant to the authority granted herein.

"§ 159F-3. *Definitions.*—The following words and terms, unless the context clearly indicates a different meaning, will have the following respective meanings:

(a) 'Authority' means the North Carolina Energy Development Authority created and established pursuant to this Chapter, or any successor thereto;

(b) 'Bonds' means the bonds, provisional bonds, refunding bonds, obligations, notes, interim receipts or provisional bonds, certificates or other evidence of indebtedness issued under the provisions of this Chapter;

(c) 'Costs' means the cost at fair market value, as determined by the Authority, of construction, real and personal property, property rights, utility extensions, disposal facilities, access roads, easements, franchises, financing charges, interest, labor, materials, machinery and equipment, engineering and legal services, plans, specifications, surveys, cost estimates, studies, transportation, interest during construction and for one year thereafter, debt service reserves, operating reserves, insurance and other expenses necessary or incidental to the design, development, construction, financing, management, operation and maintenance of an authorized project, and such other costs or purchasing expenses incurred by the Authority, as may be necessary, convenient or incidental to the purposes of the Authority, including administrative and operating costs, research and development costs, operating capital, fees, charges, loans, and the expenses associated with purchasing real and personal property;

(d) 'Energy conservation measures' means all systems, facilities, property, services and personnel designed to reduce energy consumption in public buildings, either on an overall basis or at time of system peak, including but not limited to energy retrofit systems, load management systems, thermal energy storage units and other energy-saving devices;

(e) 'Energy generation facility' means:

(1) A resource recovery facility, defined as a facility which recycles or reclaims solid waste to produce materials or energy;

(2) A facility which produces electric energy or useful thermal energy, and which depends for its primary source of fuel upon biomass, waste, peat, solar or wind energy or other renewable resources; or

(3) A co-generation facility, defined as a facility which produces electric energy and another form of useful energy, regardless of the type of fuel used.

An energy generation facility, as defined herein, shall not be considered a 'public utility' under the laws of this State, nor shall the structures, systems and equipment associated with such facility be considered 'public buildings' within the laws of this State;

(f) 'Energy services' means the furnishing of energy, including steam, from an energy generating facility or the installation, operation and maintenance of energy conservation measures;

(g) 'Federal agency' means any agency of the United States government;

(h) 'Joint venture' means a project in which ownership interests are held by one or more State agencies, units of local government, and/or federal agencies, and the Authority;

(i) 'Municipality' means a county, city, town or incorporated village;

(j) 'Person' means any individual, firm, partnership, joint venture, association, corporation, company, commission, institution, cooperative enterprise or other duly established legal entity organized or existing under the laws of this or any other state;

(k) 'Project' means an energy generating facility or energy conservation measure authorized under this Chapter;

(l) 'Resource recovery' means the processing of solid waste excluding those under control of the Atomic Energy Commission, which still have useful

physical or chemical properties after serving a specific purpose in manufacture, agriculture, power production or other processes;

(m) 'Revenues' means monies or income received by the Authority in whatever form, including but not limited to fees, charges, lease payments, income on investments, proceeds of the sale of recycled products, payments due and owing on account of any instrument, contract or agreement between the Authority and any person, gifts, grants, bestowals or any other monies or payments to which the Authority is entitled under the provisions of this Chapter, any other law, or of any agreement, contract or indenture of the Authority;

(n) 'Solid waste' means garbage, rubbish, refuse, and other unwanted or discarded solid, semisolid, or liquid materials resulting from domestic, industrial, commercial, agricultural, and governmental operations, including putrescible and nonputrescible discarded material; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; septic tank and cesspool pumpings; construction and demolition wastes; dead animals, including offal; wood wastes and inert materials; food waste; ashes; street cleanings; and combustible or noncombustible waste such as paper, rags, cardboard, wood, tin cans, weeds, glass, china, but not including municipal sewage, industrial wastewater effluents, dissolved materials in irrigation return flows, or other common water pollutants, or material disposed of or separated by its owner for recycling; provided, however, that no project shall handle a waste stream which possesses the characteristics of hazardous waste other than ignitability, as those characteristics are defined in applicable State and federal regulations;

(o) 'Solid waste collection service' means any public or private activity for the collection and transportation of solid waste;

(p) 'Special purpose service district' means a sanitary sewer district, metropolitan water and/or sewer district, county water and/or sewer district, hospital authority, hospital district, airport authority, school district, and any other unit of local government other than a county, city, town or incorporated village;

(q) 'State agency' means any and all units of the government of North Carolina, including public universities and community colleges;

(r) 'Unit of local government' means both municipalities and special purpose service districts as defined herein.

"§ 159F-4. *Energy Development Authority.*—(a) There is created and housed administratively within the North Carolina Department of Administration the North Carolina Energy Development Authority which shall be constituted an instrumentality of the State for the performance of essential governmental functions.

The Authority shall continue until its existence shall be terminated by law. Upon the termination of the existence of the Authority, all of its rights and properties shall pass to and be vested in the State.

(b) The Authority shall consist of five members, appointed by the Governor for two-year terms. One member shall be experienced in energy matters, one member shall be experienced in solid waste matters, and a third member shall be experienced in the financing of public facilities. The members shall be compensated for per diem and allowances as provided in G.S. 138-5 and G.S. 138-6.

(c) The Department of Administration shall provide such technical and clerical services and personnel as the Authority may require in the performance of its functions and shall provide liaison services with other agencies of State government to disseminate information and comment on Authority matters. The Authority shall reimburse the Department for such services from its revenues or from any other funding source.

(d) To the extent necessary, the Authority shall require any participating State agency, unit of local government or federal agency to advance funds to pay for the expenditures required by subsections (b) and (c) and other preliminary costs. Such funds shall be reimbursed to the advancing party from the proceeds of the sale of revenue bonds for the proposed project.

"§ 159F-5. *Powers of the Authority.*—(a) The Authority or any joint venture created pursuant to this Chapter shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the following powers:

(1) The power to construct, reconstruct, install, design, improve, expand, operate, maintain, lease, transfer, assign, or own in whole or in part, energy conservation measures or energy generation facilities for the benefit of any participating State agencies, units of local government and federal agencies and to enter into joint ventures with State agencies, units of local government and federal agencies to effectuate the purposes of this Chapter;

(2) The power to make plans, surveys, studies and investigations necessary or desirable, with due consideration for local or regional plans, if any, to carry out Authority functions with respect to the acquisition, use and development of real property and the design and construction of systems and facilities;

(3) The power to acquire by deed, purchase, lease, contract, gift, devise, condemnation (as to real property only within the geographic boundary of any participating unit of local government) or otherwise, any real or personal property, structures, right-of-way, franchises, easements, and other interests in lands located within the geographic boundary of any participating unit of local government or owned by any participating State or federal agency and which is necessary and convenient for the construction or operation of a project, upon such terms and conditions as it deems advisable, and to lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objects and purposes of this Chapter; provided, however, that any lease or conveyence of real property owned by the Authority or by other State agencies to a private person must reflect the fair market value of the property leased or conveyed;

(4) The power to select, approve and contract for services in the performance of architectural and engineering design and the power to select, approve and contract for the supervision of design and construction, project construction, system management and other professional or technical services as may be required for either prequalification of a contractor or the resubmission by any person or association of persons of a proposal in response to an official request for proposal or similar written communication of the Authority, whenever

such services are, in the discretion of the Authority, deemed necessary, desirable or convenient in carrying out the purposes of the Authority; provided, however, that the Authority's obligations to pay under the contract shall not be secured by the full faith and credit of the State of North Carolina, but shall be secured by the assets of the Authority;

(5) The power to contract with any person, State agency, unit of local government or federal agency for the performance of all services, including solid waste collection or management services and energy services, necessary to effectuate the purposes of this Chapter; provided, however, that the obligation of the Authority, such State agency or unit of local government to pay under any contract shall not be secured by the full faith and credit of the State of North Carolina, such State agency or unit of local government;

(6) The power to contract with any person to sell energy or other by-products of energy generation facilities and to collect revenue therefrom;

(7) In connection with the financing of an energy generation facility, the power to compel any participating State agency, special purpose service district, or federal agency to adopt and enforce a solid waste management plan, and the power to compel any participating municipality to adopt and enforce an ordinance, which plan or ordinance shall provide that any or all persons subject to the jurisdiction of the participating party shall use the services and facilities of the Authority for solid waste management; provided, however, that if a private solid waste landfill shall be substantially affected by such plan or ordinance then the unit of local government compelled to adopt the plan or ordinance shall be required to give the operator of the affected landfill at least 2 years' written notice prior to the effective date of the proposed plan or ordinance. The Authority may permit separation and exclusion of specific kinds of waste if it determines that such waste is not necessary for the operation of the facility;

(8) The power and obligation to review and actively supervise the enforcement of such solid waste plans or ordinances, when adopted in conjunction with a project;

(9) The power to adopt fee schedules, user charges, and other charges for the use and operation of facilities under its jurisdiction and control and to approve and supervise the enforcement of such schedules or charges when adopted by a unit of local government in connection with a project;

(10) The power to pledge revenues from such facilities to the benefit of bondholders or for other purposes necessary to secure financing;

(11) The power to procure and keep in force adequate insurance or otherwise provide for the adequate protection of its property as well as to indemnify and save harmless it and its officers, agents, or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function of the Authority;

(12) The power to do anything else necessary for the construction, operation and maintenance of such facilities and not otherwise prohibited by law;

(13) The power to receive, administer, and comply with the conditions or requirements respecting any appropriation or gift, grant or donation of any money, including monies from State or federal sources;

(14) The power to sue and be sued in its own name, plead and be impleaded;

(15) The power to adopt an official seal and alter the same at pleasure; and

(16) The power to adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties.

(b) Neither the Authority nor any joint venture established under this Chapter shall be subject to the following provisions of the General Statutes of North Carolina: Article 7, Chapter 129 (North Carolina Capital Building Authority); Chapter 146 (State Lands); Article 3, Chapter 143 (Purchases and Contracts); G.S. 143-128, as to the construction and operation of those facilities which produce steam or electrical energy and which depend upon waste, biomass or renewable resources for their primary source of fuel and for which single contractual responsibility is required for the construction and operation of the facility for a specified period of time; G.S. 143-341(3).

(c) Notwithstanding the powers granted in subsection (a), the Authority shall not have the power to require any State agency, municipality, or special purpose service district to contract or enter into a joint venture with the Authority.

"§ 159F-6. *Compliance with laws applicable to environmental pollution abatement and control.*—This Chapter shall not be construed as amending, repealing or in any manner abridging or interfering with those sections of the General Statutes relating to the abatement or control of environmental pollutants and wastes and toxic or hazardous wastes and substances, nor shall the provisions of this Chapter be construed as being applicable to or in any way affecting the authority of State agencies and commissions to control the discharge of environmental pollutants and wastes and toxic or hazardous wastes substances into the air, soil, or waters of the State. The Authority shall be considered a State agency for purposes of the North Carolina Environmental Policy Act.

"§ 159F-7. *Powers of State agencies and units of local government necessary to fulfill obligations under a joint venture.*—(a) All State agencies and units of local government shall have the power to enter into joint ventures or contracts with the Authority to effectuate the purposes of this Chapter.

(b) When a State agency or unit of local government enters into a joint venture or contract with the Authority, that agency or unit of local government shall have the power to:

(1) Impose, charge and collect fees for the use of the services of a project and appropriate and contribute funds to the joint venture or project, when directed to do so by the Authority. Such appropriations may be funded from any available monies, including the proceeds of bonds of the units of local government issued pursuant to the Local Government Bond Act, G.S. 159-44 *et seq.*

(2) Agree to deliver all solid waste collected within the jurisdiction of such agency or unit of local government and to pay a charge for the disposal thereof which may be fixed or based upon a formula. Such agreement may be for such period of years as may be deemed necessary by such agency or unit of local government, but shall not exceed 40 years. Such agreement may be renewed under such terms as may be set forth therein

for such additional terms as may be deemed necessary and advisable by such agency or unit of local government. Payment of service charges pursuant to the terms of such agreements may be made by appropriations or from user charges. The enforcement of such agreement shall be subject to the direction and active supervision of the Authority.

(3) Give, sell, lease, contract or assign any real or personal property, structures, rights, rights-of-way, franchises, easements, or other interests in land to the Authority or to the joint venture.

(c) When a municipality enters into a joint venture or contract with the Authority, that municipality shall also have the power to adopt, at the direction and supervision of the Authority, solid waste ordinances necessary to effectuate the purpose of this Chapter and further described in G.S. 159F-2 and G.S. 159F-5. All solid waste management practices and ordinances adopted pursuant to this Chapter shall also conform to the solid waste management program established under G.S. 130-166.18.

"§ 159F-8. *Issuance of revenue bonds.*—(a) The Authority is hereby authorized to issue revenue bonds in such principal amount as may be necessary to provide sufficient monies for the acquisition, construction, reconstruction, extension, betterment, improvement, or payment of the costs of one or more projects described herein, including engineering, inspection, legal and financial fees and costs, working capital, interest on the bonds or notes issued in anticipation thereof during construction and all other project costs defined in G.S. 159F-3(c) and, if deemed advisable by the Authority, for a period not exceeding two years after the estimated date of completion of construction, establishment of debt service reserves, and all other expenditures of the Authority incidental and necessary or convenient thereto.

Subject to agreements with the holders of its revenue bonds, the Authority may issue further revenue bonds and refund outstanding revenue bonds whether or not they have matured. Revenue bonds may be issued partly for the purpose of refunding outstanding revenue bonds and partly for any other purpose under this Chapter.

(b) Obligations issued under the provisions of this Chapter shall not be deemed to constitute a debt or liability or obligation of the State or of any municipality or political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but shall be payable solely from the revenues of the Authority. Each obligation issued under this Chapter shall contain on the face thereof a statement that the Authority shall not be obligated to pay the same nor interest thereon except from the revenues pledged therefor, and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligation.

(c) The bonds or coupons issued by the Authority which are duly certified by the officials of the Authority in the exercise of their functions on the date of their signing, shall be held valid, binding and sufficient for all purposes even though prior to the delivery and payment of such bonds or coupons, any or all of the officials of the Authority whose signatures or legal facsimile thereof that appear on the documents have ceased in their official functions in the Authority. The validity of the authorization and bond issue shall not depend or be affected by any procedure related to the construction, acquisition, expansion,

or improvement of the project for which the bonds have been issued, or by any contract entered in connection with such project. Any resolution authorizing the bond issue may provide that such bonds shall contain a clause to the effect that they are being issued pursuant to the provisions of this Chapter, and any bond containing the referred clause, authorized by a resolution of the Authority, shall be deemed conclusively valid and issued pursuant to the provisions of this Chapter.

(d) Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of the North Carolina Uniform Commercial Code, the notes and bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the North Carolina Uniform Commercial Code, and shall be deemed to be so for all purposes, at all time in the absence of any express statement that it is not assignable.

(e) Neither the directors of the Authority nor any person executing bonds and coupons shall be liable personally on the bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The Authority, subject to such agreements with bondholders as may then exist, shall have power out of any funds available therefor to purchase bonds of the Authority or bonds which may be assumed by the Authority, which bonds shall thereupon be cancelled, at a price not exceeding:

(1) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon; or

(2) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the date of purchase, whereupon which notes or bonds shall be cancelled.

(g) The Authority may not issue revenue bonds under this Chapter unless the issue is approved by the Local Government Commission. The Authority, or its duly authorized agent, shall file an application for Local Government Commission approval of the issue with the secretary of the Local Government Commission. The application shall state such bonds and the financial condition of the Authority and its enterprises as the secretary may require. The Local Government Commission may prescribe the form of the application.

Before he accepts the application, the secretary may require the Authority or its representatives to attend a preliminary conference at which time the secretary and his deputies may informally discuss the proposed issue and the timing of the steps to be taken in issuing the bonds.

After an application in proper form and order has been filed, and after a preliminary conference if one is required, the secretary shall notify the Authority in writing that the application has been filed and accepted for submission to the Local Government Commission. The secretary's statement shall be conclusive evidence that the Authority has complied with this section.

(h) In determining whether a proposed revenue bond issue shall be approved, the Local Government Commission may consider:

(1) Whether the project to be financed from the proceeds of the revenue bond issue is necessary or expedient;

(2) Whether the proposed project is feasible;

(3) The Authority's debt management procedures and policies;

(4) Whether the Authority is in default in any of its debt service obligations;

(5) Whether the probable net revenues of the project to be financed will be sufficient to service the proposed revenue bonds; and

(6) The ability to market the proposed revenue bonds at reasonable rates of interest.

The Local Government Commission may inquire into and give consideration to any other matters that it may believe to have a bearing on whether the issue should be approved.

The Local Government Commission shall approve the application if, upon the information and evidence it receives, it finds and determines:

(1) That the proposed revenue bond issue is necessary or expedient;

(2) That the amount proposed is adequate and not excessive for the proposed purpose of the issue;

(3) That the proposed project is feasible;

(4) That the Authority's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law; and

(5) That the proposed revenue bonds can be marketed at reasonable interest cost.

(i) After considering an application the Local Government Commission shall enter its order either approving or denying the application. An order approving an issue shall not be regarded as an approval of the legality of the bonds in any respect.

If the Commission enters an order denying the application, the proceedings under this Chapter shall be at an end.

(j) At any time after the Local Government Commission approves an application for the issuance of revenue bonds, the Authority may adopt a revenue bond order pursuant to this Chapter.

(k) A revenue bond order or a trust agreement securing revenue bonds may contain covenants as to:

(1) The pledge of all or any part of revenues received or to be received from the undertaking to be financed by the bonds, or the enterprise of which the undertaking is to become a part;

(2) Rates, fees, rentals, tolls or other charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants, and funds received or to be received;

(3) The setting aside of debt service reserves and the regulation and disposition thereof;

(4) The custody, collection, securing, investment, and payment of any moneys held for the payment of revenue bonds;

(5) Limitations or restrictions on the purposes to which the proceeds of sale of revenue bonds then or thereafter to be issued may be applied;

(6) Limitations or restrictions on the issuance of additional revenue bonds or notes, the terms upon which additional revenue bonds or notes may be issued and secured, or the refunding of outstanding or other revenue bonds;

(7) The procedures, if any, by which the terms of any contract with bondholders may be amended or abrogated, the percentage of revenue bonds the bondholders of which must consent thereto, and the manner in which such consent may be given;

(8) Events of default and the rights and liabilities arising thereupon, the terms and conditions upon which revenue bonds issued under this Chapter shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived;

(9) The preparation and maintenance of a budget with respect to the expenses of the Authority for the operation and maintenance of revenue bond projects;

(10) The retention or employment of consulting engineers, independent auditors, and other technical consultants in connection with revenue bond projects;

(11) Limitations on or the prohibition of free service by revenue bond projects to any person, firm or corporation, public or private;

(12) The acquisition and disposal of property for revenue bond projects;

(13) Provisions for insurance and for accounting reports and the inspection and audit thereof; or

(14) The continuing operation and maintenance of the revenue bond project or the enterprise of which it is to become a part.

(l) In fixing the details of revenue bonds, the Authority shall be subject to the following restrictions and directions:

(1) The maturity dates may not exceed the maximum maturity periods prescribed by the Commission for general obligation bonds pursuant to G.S. 159-122.

(2) No bonds may be made payable on demand, but any bond may be made subject to redemption prior to maturity, with or without premium, on such notice and at such time or times and with such redemption provisions as may be stated. When any such bond shall have been validly called for redemption and provision shall have been made for the payment of the principal thereof, any redemption premium, and the interest thereon accrued to the date of redemption, interest thereon shall cease.

(3) The bonds may bear interest at such rate or rates, payable semiannually or otherwise, may be in such denominations, and may be payable in such kind of money and in such place or places without or within the State of North Carolina, as the issuing Authority may determine.

(m) All revenue bonds issued under this Chapter shall be equally and ratably secured by a pledge, charge, and lien upon revenues provided for in the bond order, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this Chapter and of the bond order; except that that Authority may provide in a revenue bond order that revenue bonds issued pursuant thereto shall to the extent and in the manner prescribed in the order or agreement be subordinated and junior in standing, with respect to the payment of principal and interest and the security thereof, to any other revenue bonds.

Any pledge made by the Authority pursuant to this Chapter shall be valid and binding from the date of final passage of the bond order upon the issuance of any bonds or bond anticipation notes thereunder. The revenues, securities and other monies so pledged and then held or thereafter received by the Authority or any fiduciary shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge

shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority without regard to whether such parties have notice thereof.

(n) Whether or not the revenue bonds and interest coupons appertaining thereto are of such form and character as to be investment securities under Article 8 of the Uniform Commercial Code as enacted in this State, all revenue bonds and interest coupons appertaining thereto issued under this Article are hereby made investment securities within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code as enacted in this State, subject only to the provisions of the bonds pertaining to registration.

(o) Notwithstanding any other provisions of this Chapter, the State Treasurer shall have the exclusive power to issue bonds and notes authorized under the Chapter upon request of the Authority and with the approval of the Local Government Commission.

The State Treasurer in his sole discretion shall determine the interest rates, maturities, and other terms and conditions of the bonds and notes authorized by this Chapter.

The Authority shall cooperate with the State Treasurer in structuring any bond issue in general, and also in soliciting proposals from financial consultants, underwriters, and bond attorneys. The State Treasurer shall have the exclusive power to employ and designate the financial consultants, underwriters, and bond attorneys to be associated with the bond issue.

Nothing in this Chapter is intended to abrogate or diminish the inherent power of the State Treasurer to negotiate the terms and conditions of the bonds and notes.

"§ 159F-9. *Energy Fund.*—(a) Revenues received by the Authority, in excess of those required to be paid to other participants in a joint venture or paid to or held for the benefit of the holders of bonds pursuant to the provisions of any revenue bond order or trust agreement and to meet other obligations of the Authority, shall be maintained in an Energy Fund.

(b) The Energy Fund shall be deposited in an escrow account to be maintained within the control of the Office of the State Treasurer.

(c) Upon approval of the Local Government Commission and after consultation with the Advisory Budget Commission, the Authority may apply the proceeds held in the Fund to energy-related projects, including research and development activities, for the benefit of State agencies.

(d) After consultation with the Advisory Budget Commission and with the approval of the Local Government Commission, the Authority may pledge the assets of the Energy Fund as security for any bond issue approved under G.S. 159F-8."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

S. B. 318 **CHAPTER 653**

AN ACT TO CHANGE THE PUNISHMENT FOR CERTAIN FELONIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-318.4(a) is amended in line 9 by substituting "Class H" for "Class I".

Sec. 2. G.S. 14-322.1 is amended by deleting the words "Class H" and substituting the words "Class I".

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

S. B. 599 **CHAPTER 654**

AN ACT TO ALLOW COMMUNITY WATER SYSTEMS THE SAME EXEMPTION FROM BOILER REGULATIONS AS NOW AVAILABLE TO PRIVATE RESIDENCES AND SMALL APARTMENT HOUSES FOR THEIR HYDROPNEUMATIC PRESSURE TANKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-69.10(b) is amended by adding a new subdivision (12), to read as follows:

"(12) Hydropneumatic pressure tanks installed and operated by community water systems before October 1, 1983 when the tanks are located more than 50 feet from any occupied building. Hydropneumatic pressure tanks installed and operated by community water systems on or after October 1, 1983 when the tanks are located more than 75 feet from any occupied building. To qualify for these exemptions, the owner or operator of the community water system must certify to the Boiler Division of the North Carolina Department of Labor that the tanks are so located."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

S. B. 649 **CHAPTER 655**

AN ACT TO AUTHORIZE THE DIRECTOR OF THE BUDGET TO CONTINUE EXPENDITURES FOR THE OPERATION OF GOVERNMENT AT THE LEVEL IN EFFECT ON JUNE 30, 1983.

The General Assembly of North Carolina enacts:

Section 1. The Director of the Budget is authorized to continue to allocate funds for expenditure for current operations by State departments, institutions and agencies at a level not to exceed the level at which those operations were funded as of June 30, 1983. To the extent necessary to implement this authorization, funds currently available in the appropriate State funds and in cash balances, federal receipts, and departmental receipts shall be considered appropriated by the General Assembly. This authorization shall remain in effect until ratification of the current operations appropriations act for the 1983-85 biennium, at which time that act shall become effective and shall govern expenditures. Upon ratification of the current operations appropriations act, the Director of the Budget shall adjust allocations to give

effect to that act from July 1, 1983. The authorization of this act also shall apply to expenditures under the control of the State Auditor, State Treasurer, and the Administrative Office of the Courts.

Sec. 2. The last sentence of G.S. 143B-153.1 is amended by deleting "July 1, 1983", and inserting in lieu thereof "August 1, 1983".

Sec. 3. Notwithstanding Section 88 of Chapter 1127, Session Laws of 1981, Section 31 of Chapter 1127, Session Laws of 1981, shall remain effective until July 31, 1983.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.

S. B. 603 CHAPTER 656

AN ACT TO ESTABLISH A SINGLE LEGAL AGE FOR INITIAL ENTRY INTO THE PUBLIC SCHOOL SYSTEM IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-364 is amended by rewriting the same to read as follows:

"A child, to be entitled to initial entry in the public schools, must have passed the fifth anniversary of his/her birth on or before October 16 of the year in which the child is presented for enrollment, and must be presented for enrollment during the first month of the school year. The initial point of entry into the public school system shall be at the kindergarten level; provided, that if a particular child has already been attending school in another state in accordance with the laws or regulations of the school authorities of such state before moving to and becoming a resident of North Carolina, such child will be eligible for enrollment in the schools of this State regardless of whether such child has passed the fifth anniversary of his birth before October 16. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under the provisions of G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school shall have the authority to require the parents of any child presented for admission for the first time to such school to furnish a certified copy of the birth certificate of such child, which shall be furnished by the register of deeds of the county having on file the record of the birth of such child, or other satisfactory evidence of date of birth."

Sec. 2. G.S. 115C-81(f)(2) is amended by deleting the figure "15" following the word "October" and inserting figure "16" in lieu thereof.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 800 **CHAPTER 657**

AN ACT TO AMEND CHAPTER 65 RELATING TO FUNERAL AND BURIAL TRUST FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 65-36.1(1) is rewritten to read:

"(1) 'Commissioner' means the Commissioner of Banks of this State."

Sec. 2. G.S. 65-36.2 is amended as follows:

(1) by deleting the word "All" at the beginning of the first sentence of subsection (a) and inserting in lieu thereof the phrase "Except as provided in this section, all";

(2) by inserting a new subsection (b) following subsection (a) to read as follows and relettering the current subsections (b) and (c) as (c) and (d) respectively:

"(b) A funeral establishment licensed by the Commissioner may enter into an inflation-proof pre-need burial contract that establishes a fixed price for services and merchandise to be furnished at a future date regardless of changes in the cost of services and merchandise to the licensed funeral establishment. A licensed funeral establishment that enters into an inflation-proof pre-need burial contract may retain ten percent (10%) of all payments on the contract upon filing with the Commissioner a bond in the amount retained. The bond shall be in a form and with such surety or sureties as may be required by the Commissioner, conditioned on compliance with G.S. 65-36.2(e) and G.S. 65-36.3(b). In the event of noncompliance with G.S. 65-36.2(e) the Commissioner shall disburse the proceeds of the bond in accordance with G.S. 65-36.2(e), and in the event of noncompliance with G.S. 65-36.3(b) the Commissioner shall disburse the proceeds to the party who made the payments to the licensed funeral establishment. That portion of all payments on the contract not retained by the licensed funeral establishment shall be deposited in a trust fund as provided in subsection (a) of this section."

(3) by adding a new sentence at the end of current subsection (b) to read: "The trust fund shall be established in an insured account in a financial institution and may be transferred from one approved financial institution to another."

(4) by rewriting the first sentence of current subsection (c) to read:

"Upon the death of the beneficiary of a pre-need burial contract, the financial institution shall not pay funds it holds in trust under this section to the licensed funeral establishment until a certified statement is furnished to the financial institution that all terms and conditions of the contract have been fully performed by the licensed funeral establishment."

(5) by inserting a new subsection (e) to read as follows and relettering current subsections (d) and (e) as (f) and (g) respectively.

"(e) In the event that a person, partnership, association, or corporation other than the contracting licensed funeral establishment to a pre-need burial contract provides the services, merchandise or personal property described in the contract for the beneficiary thereof, the funds deposited in a financial institution pursuant to G.S. 65-36.2(a) together with all interest, dividends, increases or accretions earned on such fund and any amount retained by the licensed funeral establishment pursuant to G.S. 65-36.2(b) shall be paid to the provider of such services, merchandise or personal property upon submission to

the financial institution and the licensed funeral establishment of a certified copy of the death certificate of the beneficiary and a certified copy of the charges for the services, merchandise or personal property provided for the deceased. Any balance remaining in the financial institution or retained by the licensed funeral establishment after payment to the provider shall be paid to the estate of the beneficiary of the contract. Upon making payment pursuant to this subsection and giving notice of payment to the licensed funeral establishment, the financial institution shall be relieved from all further liability. Upon making payment pursuant to this subsection, the licensed funeral establishment shall be relieved from all further liability. This subsection shall not apply if the pre-need contract provides that it is irrevocable."

Sec. 3. G.S. 65-36.3 is rewritten to read:

"(a) Within 30 days of receipt of a written demand for refund by any party who has paid funds under a pre-need burial contract, the financial institution with which such funds have been deposited shall refund to such party the entire amount deposited with the financial institution together with all interest, dividends, increases, or accretions earned on such fund.

(b) Within 30 days of receipt of a written demand for refund by any party who has paid funds under a pre-need burial contract, the licensed funeral establishment that has retained any portion of the payments pursuant to G.S. 65-36.2(b) shall refund to such party the entire principal amount retained by the licensed funeral establishment without any interest, dividends, increases or accretions earned on such fund.

(c) After making refund pursuant to this section and giving notice of the refund to the contracting licensed funeral establishment, the financial institution shall be relieved from all further liability. After making refund pursuant to this section, the licensed funeral establishment shall be relieved from all further liability.

(d) This section shall not apply if the pre-need burial contract provides that it is irrevocable."

Sec. 4. Article 7A of Chapter 65 of the General Statutes is amended by replacing the words "Department" or "State Banking Department" with the word "Commissioner" each place the word or words appear.

Sec. 5. The present G.S. 65-36.6 is designated as G.S. 65-36.6(a) and the following paragraphs are added:

"(b) Before any trust funds may be transferred to a financial institution that is not a party to a pre-need burial contract, the licensee shall notify the Commissioner of the name and address of the intended transferee financial institution; and before the transfer may be made, the transferee financial institution shall agree to make the disclosure required under the pre-need burial contract to the Commissioner or his designated examiner. If the contract is revocable, the licensee shall notify the contracting party of the intended transfer.

(c) In the event that any licensee should transfer or assign its assets or stock to a successor funeral establishment or terminate its business as a funeral establishment, the licensee shall notify the Commissioner within 15 days after the effective date of said transfer, assignment or terminations."

Sec. 6. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 395 CHAPTER 658

AN ACT TO INCORPORATE THE TOWN OF DOBBINS HEIGHTS IN RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The following provisions of law shall constitute the Charter of the Town of Dobbins Heights:

"The Charter of the Town of Dobbins Heights.

"Article I.

"Incorporation and Corporate Powers.

"Section 1.1. Incorporation and General Powers. The inhabitants of the Town of Dobbins Heights are a body corporate and politic under the name of the Town of Dobbins Heights. Under that name they have all the powers, duties, rights, privileges and immunities conferred and imposed upon municipal corporations by the general law of North Carolina, except as modified by Sec. 2.1. of this Charter.

"Article II.

"Corporate Boundaries.

"Sec. 2.1. Annexation. Except for G.S. 160A-31, which shall apply to the Town of Dobbins Heights, the provisions of Parts 1, 2, 3, and 4 of Article 4A of Chapter 160A of the General Statutes do not apply to the Town of Dobbins Heights.

"Sec. 2.2. The corporate boundaries of the Town of Dobbins Heights, until changed in accordance with law, are as follows:

Being all that tract of land comprising 431.2 acres more or less situate in Marks Creek Township, Richmond County, North Carolina, and being bounded now or formerly on the north by the lands of J. D. Whittle and Carolina Power and Light Company right-of-way, on the east by the Seaboard Coast Line Railroad, on the South by the Hamlet Housing Authority, N. C. Highway No. 177 and Campbell Avenue, on the west by the lands of Monroe Avenue School, the Ledbetter lands, the College Park lands, the Cook lands, the Cox lands, the Clifton Stutts lands, and the Ormsby lands according to a survey and plat thereof designated as Dobbins Heights made by Powell-Liles and Associates, Surveyors, June 14, 1982, and described by metes and bounds as follows:

BEGINNING at the point where the northern edge of the right-of-way of N. C. Highway No. 177 intersects the northeastern edge of the right-of-way of Campbell Avenue and runs thence with the northeastern edge of the right-of-way of Campbell Avenue N58-21W 894.2', thence S29-18W 0.4', thence S73-18W 142', thence N12-39W 49', thence S72-21W 45.6' to a corner with the Monroe Avenue School property, thence N11-53W 485', thence N9-53W 1351.6' to a corner with the Ledbetter and College Park property, thence N28-56E 1329.2' to a corner with the Doran Cook property, thence N18-26W 910.6' to a corner with the Bernie Cox property, thence N25-50E 1367.7' to a corner with the Beulah Ormsby property, thence N40-42E 1728.1' to a corner with the J. D. Whittle property, thence S88-07E 880.7' to the center of the Carolina Power and Light Company right-of-way, thence as and with the center of the Carolina Power and Light Company right-of-way S42-29E 2685.6' to the point where the

said right-of-way intersects the western edge of the right-of-way of the Seaboard Coast Line Railroad and runs thence with the western edge of the Seaboard Coast Line right-of-way the following courses and distances: S53-58W 92.2', S50-31W 105.3', S47-41W 105.2', S44-42W 107.6', S41-30W 107.6', S38-53W 104.9', S35-54W 104.1', S33-21W 102.9', S31-17W 100.8', S30-05W 100.8', S29-20W 102.2', S29-12W 1595.1', S27-49W 98.4', S29-37W 99.7', S29-50W 100.3', S29-55W 363.3', S29-29W 102.8', S28-15W 102.6', S26-11W 106.0', S23-51W 100.0', S21-24W 104.6', S18-42W 104.6', S16-03W 104.4', S13-30W 103.7', S11-48W 103.8', S11-09W 464.2', thence leaving the western edge of the Seaboard Coast Line right-of-way N58-20W 604.4', thence S12-01W 834.5' to the northern edge of the right-of-way of N. C. Highway No. 177, thence as and with the northern edge of N. C. Highway No. 177: S56-38W 99.5', S65-32W 100.0', S72-07W 100.0', S78-03W 100.1', S80-59W 100.2', S82-13W 91.2' to the point of beginning.

"Article III.

"Governing Body.

"Sec. 3.1. Structure of Governing Body. The governing body of the Town of Dobbins Heights is the Mayor and Town Council, which shall consist of four members.

"Sec. 3.2. Manner of Election. The Mayor and Council shall be elected by the qualified voters of the entire town.

"Sec. 3.3. Term of Office. (a) The Mayor shall be elected in 1984 to serve until the organizational meeting of the Town Council in 1987 established under G.S. 160A-68. In 1987 and quadrennially thereafter, a Mayor shall be elected for a four-year term.

(b) In the 1984 municipal election, the two persons receiving the highest number of votes for Town Council shall serve until the organizational meeting of the Town Council in 1987 established under G.S. 160A-68. The two persons receiving the next highest number of votes for Town Council shall serve until the organizational meeting of the Town Council in 1985 established under G.S. 160A-68. In 1985 and biennially thereafter, two members of the Town Council shall be elected for four-year terms.

"Article IV.

"Elections.

"Sec. 4.1. Conduct of Elections. Elections for the Town of Dobbins Heights shall be conducted by the Richmond County Board of Elections.

"Sec. 4.2. Results of Election. Town officers shall be elected on a nonpartisan basis and the results determined by the election and runoff election method, as provided by G.S. 163-293.

"Article V.

"Administration.

"Sec. 5.1. Form of Government. The Town of Dobbins Heights shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes, unless changed in accordance with law."

Sec. 2. (a) The Board of Elections of Richmond County is hereby authorized and directed to call and conduct a special election on the date of the 1984 county primary election, for the purpose of submitting to the qualified voters of the area hereinafter described as the proposed corporate limits of the Town of Dobbins Heights, the question of whether or not such area shall be

incorporated as a municipal corporation to be known as the Town of Dobbins Heights. In conducting the election required to be held by this act, the Board of Elections of Richmond County shall follow the procedures contained in this act and the procedures contained in Chapter 163 of the General Statutes of North Carolina regarding municipal elections, where the same are not in conflict with this act.

(b) In the special election, the form of the ballot shall be:

"☐ FOR Incorporation of the Town of Dobbins Heights.

☐ AGAINST Incorporation of the Town of Dobbins Heights."

Sec. 2.1. The Richmond County Board of Elections shall determine the total number of voters who are registered in the area to be incorporated as of the date of the incorporation referendum, and such total shall be used in determining whether a majority of the registered voters have voted for incorporation.

Sec. 3. If the majority of the registered voters in the area to be incorporated do not cast ballots "FOR Incorporation of the Town of Dobbins Heights", then the Charter of the Town of Dobbins Heights as set forth in this act shall have no force and effect, and the election provided in Section 6 of this act shall be void.

Sec. 4. If a majority of the registered voters in the area to be incorporated cast ballots "FOR Incorporation of the Town of Dobbins Heights", then the Charter of the Town of Dobbins Heights, as set forth in this act, shall be in full force and effect from and after the date upon which a certificate of election shall have been issued by the Chairman of the Richmond County Board of Elections in accordance with the procedures of G.S. 163-301. The initial organizational meeting of the Town Council shall be 10 days after the date of the 1984 second primary.

Sec. 5. If incorporation is approved as provided in Section 4 of this act, then notwithstanding the time limitations contained in the Local Government Budget and Fiscal Control Act (Article 3 of Chapter 159 of the General Statutes), the governing body of the Town of Dobbins Heights is authorized to consider and adopt a budget ordinance for fiscal year 1984-85, including a property tax levy, as soon after the effective date of incorporation as is possible. The residents of the Town of Dobbins Heights and the property located within the Town of Dobbins Heights shall be liable for all municipal taxes imposed by the Town of Dobbins Heights governing body for the fiscal year 1984-85, and each fiscal year thereafter. The town may obtain from Richmond County, and the county shall provide upon request a record of property within the corporate limits which was listed for taxation as of January 1, 1984.

Sec. 6. The initial election for Mayor and Town Council of the Town of Dobbins Heights shall take place on the date of the county primary in 1984, the filing period for candidates for town office in 1984 shall be the same as for county officers generally, and the filing fee for the 1984 town election shall be five dollars ($5.00). If a runoff election is needed in 1984, it shall take place on the date of the second primary.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 620 **CHAPTER 659**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF SOUTHPORT AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Southport is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF SOUTHPORT.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. *Incorporation.* The City of Southport, North Carolina, in the County of Brunswick, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'City of Southport', hereinafter at times referred to as the 'City'.

"Sec. 1.2. *Powers.* The City of Southport shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be conferred, either expressly or by implication, upon the City of Southport, specifically, or upon municipal corporations, generally, by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. *Corporate Limits.* The corporate limits of the City of Southport shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the City, and as the same may be altered from time to time in accordance with law. An official map or description showing the current City boundaries shall be maintained permanently in the office of the city clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map or description of the City shall be made.

"ARTICLE II.

"MAYOR AND BOARD OF ALDERMEN.

"Sec. 2.1. *Governing Body.* The Mayor and Board of Aldermen, elected and constituted as herein set forth, shall be the governing body of the City. On behalf of the City, and in conformity with applicable laws, the Mayor and Board of Aldermen, hereinafter at times referred to as the 'Board', may provide for the exercise of all municipal powers, and shall be charged with the general government of the City.

"Sec. 2.2. *Board of Aldermen; Composition; Terms of Office.* The Board shall be composed of six members, each of whom shall be elected for a term of four years in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. *Mayor; Term of Office; Duties.* The Mayor shall be elected in the manner provided by Article III of this Charter to serve for a term of two years, or until his successor is elected and qualified. The Mayor shall be the official head of the City government and shall preside at all meetings of the Board. He shall have the right to vote only when there are an equal number of votes in the affirmative and the negative on any motion before the Board. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the City.

"Sec. 2.4. *Mayor Pro Tempore.* In accordance with applicable State laws, the Board shall appoint one of its members to act as Mayor pro tempore to perform

the duties of the Mayor in the Mayor's absence or disability. The Mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 2.5. *Meetings of the Board.* In accordance with applicable General Statutes, the Board shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 2.6. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of City ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all City ordinances shall be: 'Be it ordained by the Board of Aldermen of the City of Southport'.

"Sec. 2.7. *Voting Requirements; Quorum.* Official action of the Board shall be, except as provided otherwise by law, by majority vote, provided that a quorum, consisting of a majority of the actual membership of the Board, is present. Vacant seats are to be subtracted from the normal Board membership to determine the actual membership.

"Sec. 2.8. *Qualifications for Office; Vacancies; Compensation.* The compensation of Board members, the filling of vacancies on the Board, and the qualifications of Board members shall be in accordance with applicable provisions of the General Statutes.

"ARTICLE III.

"ELECTIONS.

"Sec. 3.1. *Regular Municipal Elections; Conduct and Method of Election.* Regular municipal elections shall be held in the City every two years in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the Board shall be elected according to the nonpartisan plurality method of election.

"Sec. 3.2. *Wards.* The City of Southport shall be divided into two wards as follows:

Ward No. 1 shall be that portion of the City lying to the eastward of the center line of Howe Street from the point where this line, projected, intersects the channel of the Cape Fear River, to the intersection of said Howe Street with the northern line of the limits of the City of Southport.

Ward No. 2 shall be all that portion of the City lying to the westward of the above described line.

"Sec. 3.3. *Election of Board Members.* Three aldermen shall be elected from each of the two wards of the City and the person, or persons, filing as a candidate from either ward shall be a resident and qualified elector of such ward. The members of the Board shall be voted upon in the general municipal election by the qualified electors of the City as a whole and not by just the qualified electors of the ward from which the candidate has filed. The candidates for the Board from each ward who received the highest number of votes in the City at large shall be declared duly elected to the office for which such candidate has filed. At the municipal election to be held in November, 1983, two members of the Board shall be elected for a term of 4 years from Ward No. 2, as described in Section 3.2 above, and 1 member from Ward No. 1,

as above described, shall be elected for a term of 4 years. Biennially thereafter, 1 member of said Board from one ward and 2 members from the other ward shall be elected, alternately, for terms of 4 years each.

"Sec. 3.4. *Voter Registration Books.* The Board of Aldermen shall prepare, or cause to be prepared under its supervision, and thereafter maintain voter registration books for each of the two wards above described.

"Sec. 3.5. *Election of the Mayor.* At the regular municipal election in 1983, and biennially thereafter, there shall be elected a Mayor to serve a term of 2 years. The Mayor shall be elected by the voters of the City voting at large.

"ARTICLE IV.

"ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. *Form of Government.* The City shall operate under the Council-Manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. *City Manager.* The Board of Aldermen shall appoint a City Manager who shall be the administrative head of the City government and shall be responsible for the administration of all departments of the City government. He shall be appointed with regard to merit only, and he need not be a resident of the City when appointed. He shall hold office during the pleasure of the Board and shall receive such compensation as it shall fix by ordinance.

The City Manager so appointed shall (1) be the administrative head of the City government, and direct and supervise the administration of all departments, offices and agencies of the City; (2) see that within the City the laws of the State and the ordinances, resolutions, and regulations of the Board are faithfully executed; (3) attend all meetings of the Board and recommend for adoption such measures as he shall deem expedient; (4) make reports to the Board from time to time upon affairs of the City, keep the Board fully advised of the City's financial condition and its future financial needs; (5) appoint, suspend and remove all heads of departments and other employees of the City, except the City Attorney, the City Tax Collector and the Clerk, who shall be appointed by the Board; (6) perform any other duties that may be required and authorized by the Board; and (7) prepare and submit the annual budget and capital program to the Board.

"Sec. 4.3. *City Attorney.* The Board shall appoint a City Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the City Attorney to prosecute and defend suits against the City; to advise the Mayor, Board and other City officials with respect to the affairs of the City; to draft all legal documents relating to the affairs of the City; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the City may be concerned; to attend meetings of the Board and to perform other duties required by law or as the Board may direct.

"Sec. 4.4. *City Clerk.* The Board shall appoint a City Clerk to keep a journal of the proceedings of the Board, to maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by law or as the Board may direct.

"Sec. 4.5. *City Finance Director.* The City Manager shall appoint a City Finance Director to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. *City Tax Collector.* The Board shall appoint a City Tax Collector to collect all taxes, licenses, fees and other revenues accruing to the City, subject to the General Statutes, the provisions of this Charter and the ordinances of the City. The City Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues.

"Sec. 4.7. *Consolidation of Functions.* The Board may consolidate any two or more positions of City Manager, City Clerk, City Tax Collector and City Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act and the Machinery Act.

"Sec. 4.8. *Other Administrative Officers and Employees.* Consistent with applicable State laws, the Board may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the city government in order to promote the orderly and efficient administration of the affairs of the City.

"ARTICLE V.

"SPECIAL PROVISIONS.

"Sec. 5.1. *Assessments for Street and Sidewalk Improvements; Petition Unnecessary.* A. In addition to any authority which is now or may hereafter be granted by general law to the City for making street improvements, the Board is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this section.

B. The Board may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the Board as a fact:

(1) That the street improvement project does not exceed 1,200 linear feet, and

(2) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or

(3) That it is in the public interest to connect two streets, or portions of a street already improved, or

(4) That it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the City's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

C. For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters, and street drainage facilities.

D. In addition to any authority which is now or may hereinafter be granted by general law to the City for making sidewalk improvements, the Board is hereby authorized without the necessity of a petition, to make or order to be made sidewalk improvements or repairs according to standards and

specifications of the City, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Board may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

E. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

F. The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes."

Sec. 2. The purpose of this act is to revise the Charter of the City of Southport and to consolidate herein certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein.

(a) Any acts concerning the property, affairs or government of public schools in the City of Southport.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter 345, Private Laws of 1909
Chapter 40, Private Laws of 1911
Chapter 299, Private Laws of 1911
Chapter 1144, Public-Local Laws of 1913
Chapter 536, Public-Local Laws of 1913
Chapter 79, Private Laws of 1913
Chapter 21, Public-Local Laws of 1915
Chapter 77, Private Laws of 1915
Chapter 94, Private Laws of 1915
Chapter 333, Public-Local Laws of 1923
Chapter 13, Private Laws of 1925
Chapter 36, Private Laws of 1927
Chapter 169, Private Laws of 1927
Chapter 466, Public-Local Laws of 1931
Chapter 76, Private Laws of 1933
Chapter 234, Private Laws of 1933
Chapter 32, Public-Local Laws of 1935
Chapter 185, Public-Local Laws of 1935
Chapter 263, Public-Local Laws of 1935

Chapter 478, Public-Local Laws of 1935
Chapter 76, Public-Local Laws of 1937
Chapter 37, Public-Local Laws of 1939
Chapter 39, Public-Local Laws of 1939
Chapter 523, Public-Local Laws of 1939
Chapter 340, Public-Local Laws of 1941
Chapter 412, Public-Local Laws of 1941
Chapter 237, Session Laws of 1951
Chapter 860, Session Laws of 1951
Chapter 379, Session Laws of 1955
Chapter 900, Session Laws of 1957
Chapter 278, Session Laws of 1959
Chapter 674, Session Laws of 1959
Chapter 56, Session Laws of 1961
Chapter 588, Session Laws of 1963
Chapter 974, Session Laws of 1965
Chapter 1216, Session Laws of 1967

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. All existing ordinances and resolutions of the City of Southport and all existing rules or regulations of departments or agencies of the City of Southport, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

Sec. 8. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act or against the City of Southport or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 9. If any of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 11. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 12. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 1249 CHAPTER 660

AN ACT TO INCLUDE TWO SATELLITE AREAS WITHIN THE CORPORATE LIMITS OF THE TOWN OF BAKERSVILLE.

The General Assembly of North Carolina enacts:

Section 1. In addition to the corporate limits of the Town of Bakersville, as now constituted, the corporate limits of the Town shall include the following described areas:

Tract 1

BEGINNING at a point in the center of N.C.S.R. 1189, said point lying at the west end of the bridge which connects N.C. 226 with N.C.S.R. 1189, and runs thence with N.C.S.R. 1189 S 71-36-00 W 90.31 feet, S 81-03-45 W 73.25 feet, S 77-06-30 W 56.70 feet; thence leaving N.C.S.R. 1189 N 19-00-20 W 179.11 feet to the center of Cane Creek; thence up and with the creek N 65-33-00 E 175.57 feet, S 42-59-40 E 225.75 feet; thence leaving the creek S 59-57-45 W 48.66 feet to the point of BEGINNING, containing 1.028 acres. The above description is according to a survey and plat dated June 1979 by Butler Associates, P.A.

Tract 2

BEGINNING at a point on the east side of a 10-foot gravel drive, said point being located N 51-11-35 E 136.57 feet from a 30-inch white oak stump, the western line corner of the Harold Gouge property, and runs thence S 89-54-25 E 201 feet; thence S 0-05-35 W 195.69 feet to a point in Cane Creek; thence down and with the creek S 72-31-45 W 235.66 feet; thence leaving Cane Creek N 5-06-10 E 267.50 feet to the BEGINNING, containing 1.1196 of an acre. This description is according to a survey and plat dated June 1979 by Butler Associates, P.A.

Sec. 2. The corporate limits of the noncontiguous areas annexed by Section 1 of this act shall be considered satellite corporate limits within the meaning of Part 4 of Article 4A of Chapter 160A of the General Statutes and they shall not be considered to be external boundaries for the purpose of G.S. 160A-48(b)(2) or G.S. 160A-48(d) as long as they remain noncontiguous.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 924 CHAPTER 661

AN ACT TO AMEND G.S. 58-79(a)(12) REGARDING LIFE INSURANCE COMPANY INVESTMENTS IN COMPUTER SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-79(a)(12) is rewritten to read:

"(12) Electronic computer or data processing apparatus, including software, and related equipment constituting a data processing, recordkeeping, or accounting system or systems if the cost of such system or systems is at least twenty-five thousand dollars ($25,000), but not more than two percent (2%) of its admitted assets, which cost shall be amortized in full over a period not to exceed 10 calendar years."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 926 CHAPTER 662

AN ACT TO AMEND G.S. 58-40(a) RELATING TO THE LICENSING OF LIFE INSURANCE AGENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-40(a) is amended at the end thereof by changing the period to a colon and adding the following: "Provided, however, any life insurance agent duly licensed for a life insurer authorized to transact business in this State may transact business for any subsidiaries or affiliates of said life insurer that are duly licensed in this State to transact the business of life insurance without securing additional licenses, provided a certified copy of a resolution adopted by the board of directors of each of the life insurers requesting such authority is filed with the Commissioner by each of the life insurers and renewed and refiled whenever deemed necessary by the Commissioner and upon the payment of any fee otherwise required as if a license had been issued. The resolution shall also designate the primary insurer for which all of the company's life insurance agents must be licensed pursuant to this section, and said license must be in full force and effect in order to transact business for any of the affiliated or subsidiary life insurers. While acting as a life insurance agent for any of the affiliated or subsidiary insurers such life insurance agent and such affiliated or subsidiary insurer shall have all the duties, responsibilities, and legal requirements that apply to life insurance agents generally under this Chapter and the common law."

Sec. 2. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 955 CHAPTER 663

AN ACT TO ALLOW TAXPAYERS TO ELECT TO APPLY ANY INCOME TAX REFUND OWED THEM TO THEIR ESTIMATED INCOME TAX LIABILITY FOR THE FOLLOWING YEAR.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-269.4. *Election to apply income tax refund to following year's tax.*— Any person required to file an income tax return under Article 4 of this Subchapter whose return shows that the person is entitled to a refund may elect to apply part or all of the refund to that person's estimated income tax liability for the following year. The Secretary of Revenue shall amend the income tax returns to permit the election authorized by this section."

Sec. 2. G.S. 105-163.16(a) and (b) are each amended by deleting the period at the end of the subsection and adding the following phrase to read:

"unless the taxpayer elects to apply the overpayment to his estimated income tax liability for the following year pursuant to G.S. 105-269.4."

Sec. 3. This act is effective upon ratification and applies to income tax returns filed for taxable years beginning on or after January 1, 1984.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 1009 CHAPTER 664

AN ACT TO AMEND G.S. 58-79(a) PERTAINING TO LIFE INSURANCE COMPANY INVESTMENTS IN FUTURES CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-79(a) is amended by adding a new subdivision to read as follows:

"(16) Notwithstanding any expressed or implied prohibitions, a company may effect or maintain bona fide hedging transactions pertaining to securities otherwise eligible for investment under this section, including, but not limited to, (i) financial futures contracts, warrants, options, calls and other rights to purchase; and (ii) puts and other rights to require another person to purchase such securities. Such contracts, options, calls, puts and rights shall be traded on a securities exchange or board of trade regulated under the laws of the United States. For purposes of this section, a 'bona fide hedging transaction' means a purchase or sale of such contract, warrant, option, call, put or right, as the case may be, entered into for the purpose of offsetting changes in the market value of a security held by the company."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 1016 **CHAPTER 665**

AN ACT TO AMEND THE SUBPOENA LAW RELATING TO MEDICAL RECORDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 45(c) is amended by inserting between the third and fourth sentences of that subsection the following new sentences:

"Where the subpoena commands any custodian of hospital medical records (as defined in G.S. 8-44.1) to appear for the sole purpose of producing certain records in his custody, the custodian subpoenaed may, in lieu of a personal appearance, tend · to the presiding judge or designee by registered mail or by personal delivery at no cost certified copies of the records requested, on or before the time specified in the subpoena, together with a copy of the subpoena and an affidavit by the custodian testifying to the identity and authenticity of the records, that they are true and correct copies, and as appropriate, that the records were made and kept in the regular course of business at or near the time of the acts, conditions, or events recorded, and that they were made by persons having knowledge of the information set forth; or if no such records are in his custody, an affidavit to that effect. When the copies of medical records are personally delivered, a receipt shall be obtained from the person receiving the records. Any original or certified copy of medical records, or affidavit, delivered according to the provisions of this rule shall not be held inadmissible in any action or proceeding on the grounds that it lacks certification, identification, or authentication, and it shall be received as evidence if otherwise admissible. The copies of the medical records so tendered shall not be open to inspection or copy by any persons, except to the parties to the case or proceeding and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communications under law to be disclosed."

Sec. 2. G.S. 8-44.1 is rewritten to read:

"§ 8-44.1. *Hospital medical records.*—Copies or originals of hospital medical records shall not be held inadmissible in any court action or proceeding on the grounds that they lack certification, identification, or authentication, and shall be received as evidence if otherwise admissible, in any court or quasi-judicial proceeding, if they have been tendered to the presiding judge or designee by the custodian of the records, in accordance with G.S. 1A-1, Rule 45(c), or if they are certified, identified, and authenticated by the live testimony of the custodian of such records.

Hospital medical records are defined for purposes of this section and G.S. 1A-1, Rule 45(c) as records made in connection with the diagnosis, care and treatment of any patient or the charges for such services except that records covered by G.S. 122-8.1, G.S. 90-109.1 and federal statutory or regulatory provisions regarding alcohol and drug abuse, are subject to the requirements of said statutes."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 1160 CHAPTER 666

AN ACT TO MAKE THE EMPLOYEES OF THE AGENCY FOR PUBLIC TELECOMMUNICATIONS SUBJECT TO THE STATE PERSONNEL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-426.11(9) is amended by rewriting the sixth sentence to read:

"Subject to the provisions of the State Personnel Act and with the approval of the Board, the Executive Director may appoint, employ, dismiss and fix the compensation of such professional, administrative, clerical and other employees as the Board deems necessary to carry out the purposes of this Part; but any employee who serves as the director of any division of the agency which may be established by the Board shall be appointed with the additional approval of the Secretary of Administration."

Sec. 2. This act is effective July 1, 1983.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 1273 CHAPTER 667

AN ACT TO ABOLISH THE EARTH RESOURCES COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-279(9), 143B-302, 143B-303, and 143B-304 are repealed.

Sec. 2. G.S. 143B-280 is amended by deleting from the third paragraph the number "21" and substituting the number "20".

Sec. 3. G.S. 143B-280 is further amended by striking from the third paragraph the phrase "the Earth Resources Council,".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

S. B. 479 CHAPTER 668

AN ACT TO CLARIFY A PROVISION IN THE GROUP HEALTH INSURANCE CONTINUATION AND CONVERSION PRIVILEGES LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-254.57(c) is amended in the 8th line by inserting between the word "ineligible" and the comma the following: "because of divorce, separation, or otherwise".

Sec. 2. This act shall apply to all group policies, as defined in G.S. 58-254.35(1), that are issued, renewed, or amended after the effective date of this act.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 58 CHAPTER 669

AN ACT TO AMEND THE GROUP HEALTH INSURANCE CONTINUATION AND CONVERSION PRIVILEGES LAW WITH REGARD TO CONVERSION POLICY RATE FILINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-254.47(c) is amended by rewriting lines 11 through 13 to read: "new rates with the Commissioner not more often than once a year."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 343 CHAPTER 670

AN ACT TO REVISE PORTIONS OF CHAPTER 162 RELATING TO SHERIFFS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162-2 is rewritten to read as follows:

"§ 162-2. *Disqualifications for the office.*—No person shall be eligible for the office of sheriff who is not of the age of 21 years, or has not resided in the county in which he is chosen for one year immediately preceding his election. No person shall engage in the practice of law or serve as a member of the General Assembly while serving as sheriff."

Sec. 2. G.S. 162-5 and G.S. 162-5.1 are each amended by deleting the word "bonds" and inserting in lieu thereof the word "bond".

Sec. 3. Article 2 of Chapter 162 is amended by rewriting the title of the Article to read:

"Article 2.

"Sheriff's Bond.

Sec. 4. G.S. 162-8 is rewritten to read as follows:

"§ 162-8. *Bond required.*—The sheriff shall furnish a bond payable to the State of North Carolina for the due execution and return of process, the payment of fees and moneys collected, and the faithful execution of his office as sheriff, which shall be conditioned as follows:

The condition of the above obligation is such that, whereas the above bounden ____ is elected and appointed sheriff of ____ County; if therefore, he shall well and truly execute and due return make of all process and precepts to him directed, and pay and satisfy all fees and sums of money by him received or levied by virtue of any process into the proper office into which the same, by the tenor thereof, ought to be paid, or to the person to whom the same shall be due, his executors, administrators, attorneys, or agents; and in all other things well and truly and faithfully execute the said office of sheriff during his continuance therein, then above obligation to be void; otherwise to remain in full force and effect.

The amount of the bond shall be determined by the board of county commissioners, but shall not exceed twenty-five thousand dollars ($25,000)."

Sec. 5. G.S. 162-9 is rewritten to read as follows:

"§ 162-9. *County commissioners to take and approve bonds.*—The board of county commissioners in every county shall take and approve the official bond of the sheriffs, which they shall cause to be registered and the original

deposited with the clerk of superior court for safekeeping. The bond shall be taken on the first Monday of December next after the election."

Sec. 6. G.S. 162-10 is rewritten to read as follows:

"§ 162-10. *Duty of commissioners when bond insufficient.*—Whenever the board of county commissioners finds that the sheriff has been unable to provide the bond prescribed by the board, the board shall give written notice to the sheriff to appear before the board within 10 days and provide a sufficient bond. If the sheriff fails to appear or provide a sufficient bond, the sheriff shall forfeit his office, and the commissioners shall elect a suitable person in the county as sheriff for the unexpired term, pursuant to G.S. 162-5 or G.S. 162-5.1, as appropriate."

Sec. 7. G.S. 162-11 is repealed.

Sec. 8. G.S. 162-14 is rewritten as follows:

"§ 162-14. *Execute process; penalty for false return.*—Every sheriff, by himself or his lawful deputies, shall execute and make due return of all writs and other process to him legally issued and directed, within his county or upon any river, bay or creek adjoining thereto, or in any other place where he may lawfully execute the same."

Sec. 9. G.S. 162-15 is rewritten as follows:

"§ 162-15. *Sufficient notice in case of amercement.*—In any case in which a person aggrieved seeks the imposition of penalties against a sheriff for failure or neglect to perform any duty of office or for any default in office as provided in G.S. 162-12, he may proceed by motion in the cause, supported by an affidavit, in a pending action. Upon the filing of a motion in the cause the clerk shall deliver a copy of the motion and affidavit and an order to show cause to the sheriff."

Sec. 10. G.S. 162-17 is rewritten as follows:

"§ 162-17. *Duties of outgoing sheriff for unexecuted process.*—It shall be the duty of any sheriff who shall have received a precept, and shall go out of office before the return day thereof, without having executed the same, to deliver same to the succeeding sheriff with sufficient time allowed for it to be executed by him."

Sec. 11. G.S. 162-18 is rewritten as follows:

"§ 162-18. *Payment of money collected on execution.*—In all cases where a sheriff has collected money upon an execution placed in his hands, if there be no bona fide contest over the application thereof, he shall immediately pay the same to the plaintiff, or into the office of the clerk of the court from which the execution issued."

Sec. 12. G.S. 162-20 is repealed.

Sec. 13. G.S. 162-21 is repealed.

Sec. 14. G.S. 162-22 is rewritten as follows:

"§ 162-22. *Custody of jail.* The sheriff shall have the care and custody of the jail in his county; and shall be, or appoint, the keeper thereof.

No law enforcement officer or jailer who shall have the care and custody of any jail shall receive any portion of any jail fee or charge paid by or for any person confined in such jail, nor shall the compensation or remuneration of such officer be affected to any extent by the costs of goods or services furnished to any person confined in such jail."

Sec. 15. G.S. 152-24 is rewritten to read as follows:

"§ 162-24. *Delegation of official duties.*—The sheriff may not delegate to another person the final responsibility for discharging his official duties, but he may appoint a deputy or employ others to assist him in performing his official duties."

Sec. 16. G.S. 162-37 is repealed.

Sec. 17. G.S. 162-38 is rewritten as follows:

"§ 162-38. *Where no jail, courts may commit to jail of adjoining county.*—Whenever there is an unfit or insecure jail in any county, the judicial officers of such county may commit any persons brought before them, whether in a criminal or civil proceeding, to the jail of any adjoining county, for the same causes and under the like regulations that they might have ordered commitments to the usual jail; and the sheriffs and other officers of such county in which there is an unfit or insecure jail, and the sheriffs or keepers of the jails of the adjoining counties, shall obey any order of commitment so made."

Sec. 18. G.S. 162-40 is rewritten as follows:

"§ 162-40. *When jail destroyed, transfer of prisoners provided for.*—When the jail of any county is destroyed by fire or other accident, any judicial officer of such county may cause all prisoners then confined therein to be brought before him. Upon the production of the process under which any prisoner was confined, such judicial officer shall order his commitment to the jail of any adjacent county. The sheriff or other officer of the county deputized for that purpose shall obey the order; and the sheriff or keeper of the common jail of such adjacent county shall receive such prisoners consistent with those provisions of G.S. 162-38."

Sec. 19. A new section G.S. 162-40.1 is added as follows:

"§ 162-40.1. *Reimbursement for transfer of prisoners.*—The county receiving prisoners pursuant to G.S. 162-38, 162-39 and 162-40 shall be reimbursed at the usual jail fee rate for each 24 hours of confinement or part thereof by the county from which the prisoner is transferred."

Sec. 20. G.S. 162-42, 162-43, 162-44 and 162-48 are hereby repealed.

Sec. 21. A new section G.S. 162-50 is added as follows:

"§ 162-50. *Penalties.*—Upon a finding that the sheriff, personally or through his lawful deputies, has willfully failed or neglected to perform any duty imposed by this Chapter, or has made any false return, he shall be subject to damages of not more than five hundred dollars ($500.00), and such damages recovered shall be paid to the person aggrieved. Nothing in this section bars an independent action for damages by the person aggrieved."

Sec. 22. G.S. 105-373(a)(1)b. is amended by inserting a parenthesis at the end thereof and by adding two new sentences to read: "The governing body of the taxing unit may publish this list in any newspaper in the taxing unit. The cost of publishing this list shall be paid by the taxing unit."

Sec. 23. G.S. 14-243 is amended by deleting the words "sheriff or".

Sec. 24. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 503 CHAPTER 671

AN ACT SETTING THE DATE FOR VALUATION OF PROPERTY DIVIDED UNDER EQUITABLE DISTRIBUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-21 is amended by designating the present language as subsection (a) and adding a new subsection to read:

"(b) If the divorce is granted on the ground of one year separation, the marital property shall be valued as of the date of separation as determined under G.S. 50-6. If the divorce is granted on any ground listed in G.S. 50-5, the marital property shall be valued as of the date the divorce action is filed or as of the date of last separation, whichever date is earlier."

Sec. 2. This act is effective on August 1, 1983, and shall apply to all civil actions brought under G.S. 50-20 *et seq.* including those actions pending in the District Court Division on the effective date hereof.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. B. 937 CHAPTER 672

AN ACT TO ESTABLISH A UNIFORM EVICTION POLICY.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 42 of the General Statutes is amended by adding a new section to read:

"§ 42-37. *Notice to tenant of execution of writ for possession of property; storage of evicted tenant's personal property.*—(a) When sheriff may remove property. Before removing a tenant's personal property from demised premises pursuant to a writ for possession of real property or an order, the sheriff shall give the tenant notice of the approximate time the writ will be executed, to be no more than seven days from the sheriff's receipt thereof. The sheriff shall remove the tenant's property, as provided in the writ, no earlier than the time specified in the notice, unless:

(1) the landlord, or his authorized agent, signs a statement saying that the tenant's property can remain on the premises, in which case the sheriff shall simply lock the premises; or

(2) the landlord, or his authorized agent, signs a statement saying that the landlord does not want to eject the tenant because the tenant has paid all court costs charged to him and has satisfied his indebtedness to the landlord.

Upon receipt of either statement by the landlord, the sheriff shall return the writ unexecuted to the issuing clerk of court and shall make a notation on the writ of his reasons. The sheriff shall attach a copy of the landlord's statement to the writ. If the writ is returned unexecuted because the landlord signed a statement described in subdivision (2) of this subsection, the clerk shall make an entry of satisfaction on the judgment docket. If the sheriff padlocks, the costs of the proceeding shall be charged as part of the court costs.

(b) Sheriff may store property. When the sheriff removes the personal property of an evicted tenant from demised premises pursuant to a writ or order the tenant shall take possession of his property. If the tenant fails or refuses to take possession of his property, the sheriff may deliver the property to any

storage warehouse in the county, or in an adjoining county if no storage warehouse is located in that county, for storage. The sheriff may require the landlord to advance the cost of delivering the property to a storage warehouse plus the cost of one month's storage before delivering the property to a storage warehouse. If a landlord refuses to advance these costs when requested to do so by the sheriff, the sheriff shall not remove the tenant's property, but shall return the writ unexecuted to the issuing clerk of court with a notation thereon of his reason for not executing the writ. All costs of summary ejectment, execution and storage proceedings shall be charged to the tenant as court costs and shall constitute a lien against the stored property or a claim against any remaining balance of the proceeds of a warehouseman's lien sale.

(c) Liability of the sheriff. A sheriff who stores a tenant's property pursuant to this section and any person acting under the sheriff's direction, control, or employment shall be liable for any claims arising out of the willful or wanton negligence in storing the tenant's property.

(d) Notice. The notice required by subsection (a) shall be made by one of the following methods:

(1) by delivering a copy of the notice to the tenant or his authorized agent at least two days before the time stated in the notice for serving the writ;

(2) by leaving a copy of the notice at the tenant's dwelling or usual place of abode with a person of suitable age and discretion who resides there at least two days before the time stated in the notice for serving the writ; or

(3) by mailing a copy of the notice by first class mail to the tenant at his last known address at least five days before the time stated in the notice for serving the writ."

Sec. 2. Chapter 838 of the 1953 Session Laws and Chapter 464 of the 1975 Session Laws are repealed.

Sec. 3. G.S. 42-51 as it appears in Volume 2A, 1981 Cumulative Supplement, is amended on the fifth line by inserting between the words "tenant" and "or" the language "costs of removal and storage of tenant's property after a summary ejectment proceeding".

Sec. 4. This act shall become effective July 1, 1983, and shall apply to writs of possession for real property and orders that are issued on or after that date.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

S. B. 238 CHAPTER 673

AN ACT TO CREATE THE PRIVATE PROTECTIVE SERVICES RECOVERY FUND.

The General Assembly of North Carolina enacts:

Section. 1. G.S. 74C-1 through G.S. 74C-19 are designated as Article 1 and captioned as follows:

"ARTICLE 1.

Private Protective Services Board."

Sec. 2. General Statutes Chapter 74C is amended by adding a new Article to read:

"ARTICLE 2.

Private Protective Services Recovery Fund.

"§ 74C-30. *Private Protective Services Recovery Fund created; payment to Fund; management; use of funds.*—(a) There is hereby created and established a special fund to be known as the 'Private Protective Services Recovery Fund' (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in full of all obligations to the Fund by any licensee or trainee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.

(c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge the following fees which shall be deposited into the Fund:

(1) On July 1, 1983, the Board shall charge every licensee and trainee possessing a license or trainee permit on that date a one-time fee of fifty dollars ($50.00);

(2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars ($50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and

(3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars ($50.00), on July 1 of any year in which the balance of the Fund is less than one hundred thousand dollars ($100,000), provided that any amount so assessed will be only so much as is needed to raise the level of the Fund to one hundred thousand dollars ($100,000), provided further that no such assessment shall be made until after such time as the Fund initially reaches a level of one hundred thousand dollars ($100,000) from funds collected pursuant to subdivisions (1) and (2) of this subsection.

(d) The State Treasurer shall invest and reinvest the monies in the Fund in a manner provided by law, provided that sufficient liquidity shall be maintained to satisfy claims authorized by the Board. The proceeds from such investments shall be deposited to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds from such investments for any of the following purposes:

(1) To advance education and research in the private protective services field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the industry;

(2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees and trainees; and

(3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina.

"§ 74C-31. *Application for payment out of Fund; hearing grounds.*—(a) The Fund shall serve as a guaranty for the obligations of those licensed under this Chapter. The Fund's liability, as guaranty, is contingent upon a licensee or trainee defaulting upon an obligation owed to a person by the licensee or trainee where said obligation was entered into by the licensee or trainee within the scope of the licensee's or trainee's employment in providing private protective services.

(b) An aggrieved party may petition the Board for a hearing to determine whether or not a licensee or trainee defaulted upon an obligation owed to the aggrieved party by the licensee or trainee; whether, if such an obligation is found, it arose within the licensee's or trainee's scope of employment while providing private protective services; and if so, the amount of damages suffered by the aggrieved party. Said hearing shall be governed by the procedures of Chapter 150A of the General Statutes.

(c) Claims filed under this Chapter may only be brought for obligations incurred on or after July 1, 1983.

(d) Until such time as the Fund reaches one hundred thousand dollars ($100,000), or at any time the Fund has insufficient assets in excess of one hundred thousand dollars ($100,000) to pay outstanding claims, the State Treasurer shall not disburse any payments to an aggrieved party. However, any party aggrieved and awarded payment as ordered by the Board which order is dated after July 1, 1983, shall hold a vested right for payment plus interest as provided in G.S. 24-1 once the Fund reaches a sufficient level for payments. Authorized payments which cannot be made due to a lack of funds will be paid as funds become available, beginning with those payments which have been unsatisfied for the longest period of time.

(e) Hearings held pursuant to this Article shall be separate and apart from any hearings authorized pursuant to Article 1 of this Chapter. However, there is no prohibition against, if the Board so desires, holding hearings pursuant to Article 1 and Article 2 at the same location, on the same date, or in front of the same hearing officer provided that in so doing no provisions of Chapter 150A of the General Statutes are violated.

"§ 74C-32. *Order directing payment out of Fund.*—If the Board finds, after a hearing pursuant to G.S. 74C-31, that the Fund, as guarantor, should make a payment to an aggrieved party, the Board shall enter an order directed to the State Treasurer authorizing payment from the Fund of whatever sum the Board shall find to be payable in accordance with the limitations contained in this Article.

"§ 74C-33. *Maximum liability; pro rata distribution.*—(a) Payments from the Fund shall be subject to the following limitations:

(1) The Fund shall not be liable for more than five thousand dollars ($5,000) per obligation regardless of the number of persons aggrieved; and

(2) The liability of the Fund shall not exceed in the aggregate ten thousand dollars ($10,000) for any one licensee or trainee within a single calendar year.

(b) If the maximum liability of the Fund is insufficient to pay in full the valid claims of all aggrieved persons whose claims relate to the same obligation or to the same licensee or trainee, the amount for which the Fund is liable shall be distributed among the claimants in a ratio that their respective claims bear to

the total of such valid claims or in such manner as the Board deems equitable. Upon action of the Board or parties, the Board may require all claimants and prospective claimants to be joined in one action to the end that the respective rights of all such claimants to the Fund may be equitably adjudicated and settled."

Sec. 3. G.S. 74C-8(f) is hereby amended on line 7 by deleting the phrase: "furnishing of the required cash bond or surety bond" and inserting in lieu thereof the following: "the required contribution to the Private Protective Services Recovery Fund,".

Sec. 4. G.S. 74C-10 is hereby amended by repealing subsections (a), (b), (c) and (d).

Sec. 5. G.S. 74C-10(h) is amended on line 2 by deleting the words "surety bond and" and is further amended on line 6 by deleting the phrase "bond, insurance certificate, or both." and inserting in lieu thereof the words "insurance certificate."

Sec. 6. G.S. 74C-10(i)(2) is amended on line 2 by deleting the words "bond or".

Sec. 7. G.S. 74C-12(a)(14) is rewritten to read as follows: "Failure to make the required contribution to the Private Protective Services Recovery Fund or to maintain the certificate of liability insurance required by this Chapter;".

Sec. 8. The catch line of G.S. 74C-10 is rewritten to read:

"§ 74C-10. *Certificate of liability insurance required; form and approval; suspension for noncompliance.*"

Sec. 9. G.S. 74C-20 is hereby repealed.

Sec. 10. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

S. B. 251 CHAPTER 674

AN ACT TO PERMIT COUNTY COMMISSIONERS TO ADOPT SUBSTANTIALLY EQUIVALENT POLICIES FOR PORTIONS OF THE STATE PERSONNEL ACT FOR COUNTY EMPLOYEES SUBJECT TO CHAPTER 126.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-11 is amended by rewriting the section to read as follows:

"(a) The board of county commissioners of any county may establish and maintain a personnel system for all employees of the county subject to its jurisdiction, which system and any substantial changes to the system, shall be approved by the State Personnel Commission as substantially equivalent to the standards established under this Chapter for employees of local departments of social services, local health departments, and area mental health programs, local emergency management programs. If approved by the State Personnel Commission, the employees covered by the county system shall be exempt from all provisions of this Chapter except Article 6.

(b) A board of county commissioners may petition the State Personnel Commission to determine whether any portion of its total personnel system meets the requirements in (a) above. Upon such determination, county

employees shall be exempt from the provisions of this Chapter relating to the approved portions of the county personnel system.

(c) The Office of State Personnel shall monitor at least annually county personnel systems approved under this section in order to ensure compliance.

(d) In order to define 'substantially equivalent', the State Personnel Commission is authorized to promulgate rules and regulations to implement the federal merit system standards and these regulations at a minimum shall include: recruitment and selection of employees; position classification; pay administration; training; employee relations; and records and reports."

Sec. 2. Nothing in this section shall be construed as authorizing a board of county commissioners to designate any positions as exempt.

Sec. 3. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

S. B. 607 CHAPTER 675

AN ACT TO ENSURE EQUAL TREATMENT OF UNEMPLOYED INDIVIDUALS WHO ARE MEMBERS OF NATIONAL GUARD UNITS AND UNEMPLOYED INDIVIDUALS WHO ARE MEMBERS OF UNITED STATES ARMED FORCES RESERVE COMPONENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-8(10)c. is amended by adding a new sentence at the end to read: "Sums received by any individual for services performed as a member of the N. C. National Guard, as defined in G.S. 127A-3, or as a member of any reserve component of the United States Armed Forces shall not be considered in determining that individual's employment status under this subsection."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

S. B. 188 CHAPTER 676

AN ACT TO REGULATE THE HEIGHT OF TALL BUILDINGS OR STRUCTURES ON MOUNTAIN RIDGES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113A of the General Statutes is amended by adding at the end thereof a new Article 14, to read as follows:

"Article 14.

"Mountain Ridge Protection.

"§ 113A-205. *Short title.*—This act shall be known as the Mountain Ridge Protection Act of 1983.

"§ 113A-206. *Definitions.*—Within the meaning of this Article:

(1) The word 'person' includes any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

(2) A person, as defined in this section, doing business or maintaining an office within a county is a resident of the county.

(3) 'Tall buildings or structures' include any building, structure or unit within a multiunit building with a vertical height of more than 40 feet measured from the top of the foundation of said building, structure or unit and the uppermost point of said building, structure or unit; provided, however, that where such foundation measured from the natural finished grade of the crest or the natural finished grade of the high side of the slope of a ridge exceeds 3 feet, then such measurement in excess of 3 feet shall be included in the 40-foot limitation described herein; provided, further, that no such building, structure or unit shall protrude at its uppermost point above the crest of the ridge by more than 35 feet. 'Tall buildings or structures' do not include:

(a) Water, radio, telephone or television towers or any equipment for the transmission of electricity or communications or both.

(b) Structures of a relatively slender nature and minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires, or windmills.

(c) Buildings and structures designated as National Historic Sites on the National Archives Registry.

(4) 'Construction' includes reconstruction, alteration, or expansion.

(5) 'Ridge' means the elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain, and includes all land within 100 feet below the elevation of any portion of such line or surface along the crest.

(6) 'Protected mountain ridges' are all mountain ridges whose elevation is 3000 feet and whose elevation is 500 or more feet above the elevation of an adjacent valley floor; provided, however, that a county may elect to eliminate the requirement for an elevation of 3000 feet, and such election shall apply both to an ordinance adopted under G.S. 113A-208 and the prohibition against construction under G.S. 113A-209; provided, further, that such ordinance shall be adopted pursuant to the procedures of G.S. 113A-208.

(7) 'Crest' means the uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to a lower elevation or elevations.

"§ 113A-207. *Legislative findings.*—The construction of tall or major buildings and structures on the ridges and higher elevations of North Carolina's mountains in an inappropriate or badly designed manner can cause unusual problems and hazards to the residents of and to visitors to the mountains. Supplying water to, and disposing of the sewage from, buildings at high elevations with significant numbers of residents may infringe on the ground water rights and endanger the health of those persons living at lower elevations. Providing fire protection may be difficult given the lack of water supply and pressure and the possibility that fire will be fanned by high winds. Extremes of weather can endanger buildings, structures, vehicles, and persons. Tall or major buildings and structures located on ridges are a hazard to air navigation and persons on the ground and detract from the natural beauty of the mountains.

"§ 113A-208. *Regulation of mountain ridge construction by counties and cities.*—(a) Any county or city may adopt, effective not later than January 1,

1984, and may enforce an ordinance that regulates the construction of tall buildings or structures on protected mountain ridges by any person. The ordinance may provide for the issuance of permits to construct tall buildings on protected mountain ridges, the conditioning of such permits, and the denial of permits for such construction. Any ordinance adopted hereunder shall be based upon studies of the mountain ridges within the county, a statement of objectives to be sought by the ordinance, and plans for achieving these objectives. Any such county ordinance shall apply countywide except as otherwise provided in G.S. 160A-360, and any such city ordinance shall apply citywide, to construction of tall buildings on protected mountain ridges within the city or county, as the case may be.

(b) Under the ordinance, permits shall be denied if a permit application (and shall be revoked if a project) fails to provide for:

(1) Sewering that meets the requirements of a public wastewater disposal system that it discharges into, or that is part of a separate system that meets applicable State and federal standards;

(2) A water supply system that is adequate for fire protection, drinking water and other projected system needs; that meets the requirements of any public water supply system that it interconnects with; and that meets any applicable State standards, requirements and approvals;

(3) Compliance with applicable State and local sedimentation control regulations and requirements; and

(4) Adequate consideration to protecting the natural beauty of the mountains, as determined by the local governing body.

(c) Permits may be conditioned to insure proper operation, to avoid or mitigate any of the problems or hazards recited in the findings of G.S. 113A-207, to protect natural areas or the public health, and to prevent badly designed, unsafe or inappropriate construction.

(d) An ordinance adopted under the authority of this section applies to all protected mountain ridges as defined in G.S. 113A-206. A county or city may apply the ordinance to other mountain ridges within its jurisdiction if it finds that this application is reasonably necessary to protect against some or all of the hazards or problems set forth in G.S. 113A-207.

(e) Determinations by the county or city governing board of heights or elevations under this Article shall be conclusive in the absence of fraud. Any county or city that adopts a ridge ordinance under the authority of this section or other authority shall send a copy of the ordinance to the Secretary of Natural Resources and Community Development.

(f) Any county or city that adopts an ordinance pursuant to this section must hold a public hearing before adopting the ordinance upon the question of adopting the ordinance or of allowing the construction of tall buildings on protected mountain ridges to be governed by G.S. 113A-209. The public hearing required by this section shall be held upon at least 10 days' notice in a newspaper of general circulation in the unit adopting the ordinance. Testimony at the hearing shall be recorded and any and all exhibits shall be preserved within the custody of the governing body. The testimony and evidence shall be made available for inspection and scrutiny by any person.

(g) Any resident of a county or city that adopted an ordinance pursuant to this section, or of an adjoining county, may bring a civil action against the ordinance-adopting unit, contesting the ordinance as not meeting the

requirements of this section. If the ordinance is found not to meet all of the requirements of this section, the county or city shall be enjoined from enforcing the ordinance and the provisions of G.S. 113A-209 shall apply. Nothing in this Article authorizes the State of North Carolina or any of its agencies to bring a civil action to contest an ordinance, or for a violation of this Article or of an ordinance adopted pursuant to this Article.

"§ 113A-209. *Certain buildings prohibited.*—(a) This section applies beginning January 1, 1984, in any county or city that has failed to adopt a ridge protection ordinance pursuant to G.S. 113A-208 by January 1, 1984.

(b) No county or city may authorize the construction of, and no person may construct, a tall building or structure on any protected mountain ridge.

(c) No county or city may authorize the providing of the following utility services to any building or structure constructed in violation of subsection (b) of this section: electricity, telephone, gas, water, sewer, or septic system.

"§ 113A-210. *Application to existing buildings.*—G.S. 113A-208 and G.S. 113A-209 apply to buildings that existed upon the effective date of this Article as follows:

(1) No reconstruction, alteration or expansion may aggravate or intensify a violation by an existing building or structure that did not comply (a) with G.S. 113A-209 upon its effective date, or (b) with an ordinance adopted under G.S. 113A-208 upon its effective date.

(2) No reconstruction, alteration or expansion may cause or create a violation by an existing building or structure that did comply (a) with G.S. 113A-209 upon its effective date, or (b) with an ordinance adopted under G.S. 113A-208 upon its effective date.

"§ 113A-211. *Enforcement and penalties.*—(a) Violations of this Article shall be subject to the same criminal sanctions, civil penalties and equitable remedies as violations of county ordinances under G.S. 153A-123.

(b) Any person injured by a violation of this Article or any person who resides in the county in which the violation occurred may bring a civil action against the person alleged to be in violation. The action may seek:

(1) Injunctive relief; or

(2) An order enforcing the provision violated; or

(3) Damages caused by the violation; or

(4) Both damages and injunctive relief; or

(5) Both damages and an enforcement order; or

(6) Both an enforcement order and injunctive relief. If actual damages as found by the court or jury in suits brought under this subsection are five hundred dollars ($500.00) or less, the plaintiff shall be awarded double the amount of actual damages; if the amount of actual damages as found by the court or jury is greater than five hundred dollars ($500.00), the plaintiff shall receive damages in the amount so found. Injunctive relief or an enforcement order under this subsection may be based upon a threatened injury, an actual injury, or both.

Civil actions under this subsection shall be brought in the General Court of Justice of the county in which the alleged violation occurred. The court, in issuing any final order in any action brought pursuant to this section may award costs of litigation, including reasonable attorney and expert-witness fees, to any party, whenever it determines that such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought,

require the filing of a bond or equivalent security, the amount of such bond or security to be determined by the court. Nothing in this section shall restrict any right which any person or class of persons may have under the common law or under any statute to seek injunctive or other relief.

(c) Within the meaning of this section, violations of this Article include violations of local ordinances adopted pursuant to G.S. 113A-208.

"§ 113A-212. *Assistance to counties and cities under ridge law.*—(a) The Secretary of Natural Resources and Community Development shall provide assistance upon request to the counties and cities in carrying out their functions pursuant to this Article, such as by providing model studies, plans, and ordinances for their consideration.

(b) The Secretary of Natural Resources and Community Development shall identify the protected mountain ridge crests in each county by showing them on a map or drawing, describing them in a document, or any combination thereof. Such maps, drawings, or documents shall identify the protected mountain ridges as defined in G.S. 113A-206 and such other mountain ridges as any county may request , and shall specify those protected mountain ridges that serve as all or part of the boundary line between two counties. By November 1, 1983, the map, drawing, or document tentatively identifying the protected mountain ridge crests of each county shall be filed with the board of county commissioners and with the city governing body of each city that requests it. By January 1, 1984, the map, drawing, or document identifying the protected mountain ridge crests shall be permanently filed by the Secretary with the register of deeds in the county where the land lies, and made available for inspection at the Secretary's office in Raleigh. Copies of the maps, drawings, or documents certified by the register of deeds, shall be admitted in evidence in all courts and shall have the same force and effect as would the original.

(c) Determinations by the Secretary of elevations under this section shall be conclusive in the absence of fraud.

"§ 113A-213. *Article is supplemental.*—This Article provides a supplemental source of authority in addition to other present or future legislation and shall not be construed as prescribing an exclusive procedure or as granting exclusive powers.

"§ 113A-214. *Choosing coverage or removal from coverage of this Article.*—(a) This Article shall apply in all counties and cities unless and until the jurisdiction adopts an ordinance exempting itself from the coverage of this Article.

This exemption shall only be effective after a binding referendum, in which all registered voters in the jurisdiction are eligible to vote, which shall be held on or before May 8, 1984. The binding referendum shall be held either as a result of a resolution passed by the governing body of the jurisdiction or as a result of an initiative petition signed by fifteen percent (15%) of the registered voters in the jurisdiction and filed with the Board of Elections of that county not later than 60 days before the election is to be held. At that referendum, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

☐ FOR coverage under the Mountain Ridge Protection Act of 1983.

☐ AGAINST coverage under the Mountain Ridge Protection Act of 1983.

(b) If a jurisdiction removes itself from the coverage of this Article, by means of a binding referendum, as provided for in subsection (a) of this section, then it

shall have until May 13, 1986 to place itself again under the coverage of this Article by means of an ordinance passed after a similar binding referendum. Once a jurisdiction opts out and then opts back under the Article, it may not take any further action to again remove itself from the coverage of the Article.

(c) If a county has chosen the permit procedure authorized by G.S. 113A-208, and then opts out of and either the county or any city in the county opts back under the coverage of this Article, then that jurisdiction may choose the permit procedure even after January 1, 1984.

(d) When a county removes itself from the coverage of this Article all cities within the county shall be removed from the coverage of this Article. Provided, however, a city in a county that has removed itself from coverage may, under the procedure set forth in subsection (b) of this section, place itself again under the coverage of this Article.

(e) When a protected mountain ridge is any part of the boundary between two jurisdictions then that part of the ridge shall be covered by this Article unless both jurisdictions remove themselves from the coverage of this Article."

Sec. 2. Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-448. *Mountain ridge protection.*—Counties may enact and enforce mountain ridge protection ordinances pursuant to Article 14 of Chapter 113A of the General Statutes, and in such enactment and enforcement shall comply with all applicable provisions of Article 14 unless the county has removed itself from the coverage of Article 14 through the procedure provided by law."

Sec. 3. Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-458.2. *Mountain ridge protection.*—Cities may enact and enforce mountain ridge protection ordinances pursuant to Article 14 of Chapter 113A of the General Statutes, and in such enactment and enforcement shall comply with all applicable provisions of Article 14 unless the city has removed itself from the coverage of Article 14 through the procedure provided by law."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of July, 1983.

S. B. 89 CHAPTER 677

AN ACT TO AMEND CHAPTER 50 OF THE GENERAL STATUTES TO ESTABLISH PROCEDURES TO INSURE PAYMENT OF CHILD SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 50 of the General Statutes is amended by adding a new section to read as follows:

"§ 50-13.9. *Procedure to insure payment of child support.*—(a) Upon its own motion or upon motion of either party, the court may order at any time that support payments be made to the clerk of court for remittance to the party entitled to receive the payments.

(b) After entry of such an order by the court, the clerk of court shall maintain records listing the amount of payments, the date payments are required to be made, and the names and addresses of the parties affected by the order.

(c) The parties affected by the order shall inform the clerk of court of any change of address or of other condition that may affect the administration of the order. The court may provide in the order that a party failing to inform the court of a change of address within a reasonable period of time may be held in civil contempt.

(d) When a supporting party fails to make a required payment of child support, and is in arrears of said payment, the clerk of superior court shall mail by regular mail to the last known address of the supporting party a notice of delinquency which shall set out the amount of child support currently due and shall demand immediate payment of said amount. The notice shall also state that failure to make immediate payment may result in the issuance of an order of the court requiring the supporting party to appear before a district court judge and show cause why he should not be adjudged in contempt of the order of the court. The failure to receive said notice shall not be a defense in any proceedings thereafter. If the supporting party is subsequently found in contempt of an order of the court, thereafter notice shall be in the discretion of the clerk.

If the arrearage is not paid in full within 21 days after the mailing of said notice or is not paid within 30 days after the supporting party becomes delinquent, if the clerk has elected not to send a delinquency notice, the clerk shall cause to be issued an order ordering the supporting party to show cause why he should not be adjudged in contempt of orders of the court and shall issue a notice of hearing before a district court judge. Said order may be signed by the clerk or a district court judge, and shall be served upon the supporting party pursuant to the North Carolina Rules of Civil Procedure. The clerk shall also notify the party to whom support is owed of the pending hearing. The clerk may withdraw the order to the supporting party upon receipt of the delinquent payment. On motion of the recipient, with the approval of the district court judge, if he finds it is in the best interest of the child, no order shall be issued.

(e) The clerk of court shall maintain and make available to the district court judge a list of attorneys who are willing to undertake representation, pursuant to this section, of persons to whom child support is owed. No attorney shall be placed on such list without his permission.

(f) At least seven days prior to a contempt hearing set forth in subsection (d), the clerk must notify the district court judge of all cases to be heard on contempt charges at the next term of district court and the judge shall appoint an attorney to represent each party to whom support payments are owed from the list described in (e) if the judge deems it to be in the best interest of the child for whom support is being paid, unless:

(1) The attorney of record for the party to whom support payments are owed has notified the clerk of court that he will appear for said party; or

(2) The party to whom support payments are owed requests the judge not to appoint an attorney; or

(3) An attorney for the enforcement of child support obligations pursuant to Title IV, Part D, of the Social Security Act as amended is available.

The judge may order payment of reasonable attorney's fees as provided in G.S. 50-13.6.

(g) Nothing in this section shall preclude the independent initiation of proceedings for civil contempt by a party."

Sec. 2. This act shall become effective October 1, 1983. The Director of the Budget is authorized to transfer for the fiscal years 1983-84 and 1984-85 related savings from the Department of Human Resources, Division of Social Services to the Judicial Department sufficient for the establishment of necessary positions and other expenses to implement this act. It is not mandatory that this act be implemented until such funds are available.

In the General Assembly read three times and ratified, this the 5th day of July, 1983.

S. B. 323 CHAPTER 678

AN ACT REGARDING THE METHOD OF EXECUTION IN THIS STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-187 is amended by changing the period at the end to a comma and adding the following: "except that if any person sentenced to death so chooses, he may at least five days prior to his execution date, elect in writing to be executed by the administration of a lethal quantity of an ultrashort-acting barbiturate in combination with a chemical paralytic agent."

Sec. 2. G.S. 15-188 is amended by deleting the first word of that section and substituting the following:

"Except as otherwise provided in G.S. 15-187, the".

Sec. 3. G.S. 15-190 is amended by deleting from the first sentence the word "asphyxiated" and substituting the word "executed"; and is further amended by deleting from the second sentence the word "asphyxiation" and substituting the word "execution"; and is further amended by deleting from the second sentence the word "asphyxiated" and substituting the word "executed".

Sec. 4. The warden of Central Prison may obtain and employ the drugs necessary to carry out the provisions of this act, regardless of contrary provisions in Chapter 90 of the General Statutes.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of July, 1983.

H. B. 436 CHAPTER 679

AN ACT TO REVISE G.S. 1A-1, RULE 4(j1), RELATING TO SERVICE OF PROCESS BY NEWSPAPER PUBLICATION IN ORDER TO INCORPORATE COURT MANDATED REQUIREMENTS AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 4(j1) is hereby amended by rewriting the second sentence after the catch line to read as follows:

"Service of process by publication shall consist of publishing a notice of service of process by publication once a week for three successive weeks in a newspaper that is qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and circulated in the area where the party to be served is believed by the serving party to be located, or if there is no reliable information concerning the location of the party then in a newspaper circulated in the county where the action is pending.", and is further amended by rewriting the last sentence thereof to read as follows: "Upon completion of such service there

shall be filed with the court an affidavit showing the publication and mailing in accordance with the requirements of G.S. 1-75.10(2), the circumstances warranting the use of service by publication, and information, if any, regarding the location of the party served."

Sec. 2. G.S. 1A-1, Rule 4(j2)(3) is hereby amended on line 4 after the word "publication" by inserting the following: ", information, if any, regarding the location of the party served which was used in determining the area in which service by publication was printed".

Sec. 3. This act shall become effective January 1, 1984, and shall apply to actions and proceedings commenced on or after that date.

In the General Assembly read three times and ratified, this the 5th day of July, 1983.

S. B. 602 CHAPTER 680

AN ACT TO AMEND CHAPTER 147 OF THE GENERAL STATUTES TO ALLOW FOR THE PAYROLL DEDUCTION BY A DEPARTMENT OF TRANSPORTATION EMPLOYEE REQUIRED BY FEDERAL AND STATE LAW TO WEAR DAY-GLO ORANGE SHIRTS OR VESTS OF THE COST OF UNIFORM RENTAL AND INSURANCE PREMIUMS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 147-62 is amended by deleting the phrase "and life insurance companies" and substituting the phrase "uniform rental firms to allow employees of the Department of Transportation to rent day-glo orange shirts or vests as required by federal and State law, and medical, hospital, disability and life insurance companies".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of July, 1983.

H. B. 544 CHAPTER 681

AN ACT TO REQUIRE A LAW ENFORCEMENT OFFICER WHO ARRESTS OR ISSUES A CITATION TO AN UNEMANCIPATED MINOR TO INFORM THE MINOR'S PARENTS OF THE ARREST OR CITATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-504. *Notification of minor's parent.*—A law enforcement officer who charges a minor with a criminal offense must, without unnecessary delay, make a reasonable effort to inform or cause to be informed a parent or guardian of the minor of the charge. This notice is not required if:

(1) The minor is emancipated; or

(2) The minor has been charged with a motor vehicle moving violation for which three or fewer points are assessed under G.S. 20-16(c), except an offense involving impaired driving, as defined in G.S. 20-4.01(24a); or

(3) The minor has been charged with a motor vehicle offense that is not a moving violation."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 5th day of July, 1983.

H. B. 833 CHAPTER 682

AN ACT TO ESTABLISH AN INTENSIVE PROBATION PROGRAM IN THE DIVISION OF ADULT PROBATION AND PAROLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-262 is amended by adding a new subsection to read:

"(c) The Department shall establish within the Division of Adult Probation and Parole a program of Intensive Probation. This program shall provide intensive supervision for probationers who require close supervision in order to remain in the community pursuant to a community penalties plan, community work plan, community restitution plan, or other plan of rehabilitation."

Sec. 2. Nothing in this act shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of July, 1983.

H. B. 849 CHAPTER 683

AN ACT TO PERMIT EDGECOMBE COUNTY TO SELL IMPOUNDED DOGS AND CATS TO REGISTERED INSTITUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 67-31(1) is amended by adding after the word "dogs" the words "and cats".

Sec. 2. G.S. 67-32 is amended to read:

"§ 67-32. *Pound; disposition of impounded dogs and cats.*—The board of county commissioners in each county in which a county dog warden is appointed under this Article shall establish and maintain a dog pound in each county, the same to be under the supervision of the county dog warden, for the purpose of impounding lost and stray dogs and cats for a period of at least three days, during which time the county dog warden shall make every reasonable effort to locate and give notice to the owners of such dogs and cats, or if such owners cannot be located, to find new owners for such dogs and cats. The dog warden shall keep a permanent bound record of the date on which each dog or cat is impounded, and if at the end of the holding period of at least three days, such dogs and cats remain unclaimed by their owners or by prospective owners, such dogs and cats may be destroyed in a humane manner, under the direct supervision of the county dog warden; unless an owner delivering a dog or cat to the dog warden objects in writing, such dogs and cats may be sold to an institution registered with the United States Department of Agriculture under the Animal Welfare Act (Chapter 54 of Title 7 U.S.C.). Anyone claiming or redeeming a dog or cat at the pound will be required to pay the actual cost of keeping the dog or cat in the pound, as well as any tax due, before any such dog or cat may be released."

Sec. 3. This applies only to Edgecombe County.

Sec. 4. This act is effective upon ratification. If either HB 318 or SB 141, now pending in the General Assembly, is enacted into law and as enacted repeals G.S. 67-32 in its statewide application, that repeal shall not be construed to repeal Section 2 of this act, unless this act is specifically repealed as well.

In the General Assembly read three times and ratified, this the 5th day of July, 1983.

S. B. 636 CHAPTER 684

AN ACT TO REPEAL CERTAIN OBSOLETE DEPARTMENT OF TRANSPORTATION STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-84, 136-85, 136-86, and 136-87 are repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of July, 1983.

H. B. 28 CHAPTER 685

AN ACT TO PROVIDE AN UNLIMITED GIFT TAX EXCLUSION FOR CERTAIN EDUCATIONAL AND MEDICAL PAYMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-188 is amended by adding a new subsection to read:

"(i) The tax does not apply to tuition payments made on behalf of an individual to an educational institution or to medical payments made on behalf of an individual to a provider of medical care, as defined in G.S. 105-147(11)b.1., for the care of that individual. The term 'educational institution' includes only those institutions that normally maintain a regular faculty and curriculum and normally have a regularly organized body of students in attendance where the educational activities are conducted."

Sec. 2. This act is effective January 1, 1983, and applies to transfers made on or after that date.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 545 CHAPTER 686

AN ACT TO AMEND CHAPTER 25A OF THE GENERAL STATUTES TO CLARIFY CERTAIN TYPES OF "SALE" IN THE RETAIL INSTALLMENT SALES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25A-1 is amended by adding the words "and those sales defined in G.S. 25A-2(b)," after the words "referral sales," in the first line of paragraph two.

Sec. 2. G.S. 25A-2(b) is amended by adding a new paragraph to read:

"The term also includes a contract in the form of a terminable bailment or lease of goods or services in which the bailee or lessee can renew the bailment or lease contract periodically by making the payment or payments specified in the contract if:

(1) the contract obligates the bailor or lessor to transfer ownership of the property to the bailee or lessee for no other or a nominal consideration

(no more than ten percent (10%) of the cash price of the property at the time the bailor or lessor initially enters into the contract with the bailee or lessee) upon the making of a specified number of payments by the bailee or lessee; and

(2) the dollar total of the specified number of payments necessary to exercise the purchase option is more than ten percent (10%) in excess of the aggregate value of the property and services involved. For the purposes of this subsection, the value of goods shall be the average cash retail value of the goods. The value of services shall be the average retail value, if any, of such services, as determined by substantial cash sales of such services. If a contract is found to be a sale under this subsection, these values shall be used to determine the amount financed for purposes of G.S. 25A-15."

Sec. 3. G.S. 25A-2 is amended by adding a new subsection, immediately after subsection (d), to read:

"(e) If an advertisement for a terminable bailment or lease defined as a sale in subsection (b) above states the amount of any payment, the advertisement must also clearly and conspicuously state the following items, as applicable:

(1) a statement that the transaction advertised is a lease;

(2) the total amount of periodic payments necessary to acquire ownership or a statement that the consumer has the option to purchase the property and at what time;

(3) that the consumer acquires no ownership rights if either the property is not leased for the term required for ownership to transfer or the terms of purchase are not otherwise satisfied.

If an advertisement for a terminable bailment or lease defined as a sale in subsection (b) above refers to the right to acquire ownership, the advertisement must clearly and conspicuously state whether or not the consumer may terminate the lease at any time without penalty and that the consumer acquires no ownership rights if either the property is not leased for the term required for ownership to transfer or the terms of purchase are not otherwise satisfied.

No one shall advertise in connection with any terminable bailment or lease defined as a sale in subsection (b) above the ownership option as a means of deceiving any lessee into believing that he is purchasing the item of personal property."

Sec. 4. G.S. 25A-44 is amended by adding a new subdivision, immediately after subdivision (4), to read:

"(5) Any buyer injured by any violation of G.S. 25A-2(e) may bring an action for recovery of damages, including reasonable attorney's fees."

Sec. 5. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 644 **CHAPTER 687**

AN ACT TO ALLOW GASTON COUNTY TO REGULATE VEHICLE TOWING BUSINESSES WITHIN THE UNINCORPORATED AREAS OF GASTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Vehicle Towing Services. Gaston County may by ordinance, subject to the general law of the State, regulate and license vehicle towing services for emergencies and accidents provided in the county to the public at large. The ordinance may:

(1) Grant a license to vehicle towing operators on terms set by the Board of Commissioners;

(2) Make it unlawful to provide vehicle towing services or to operate a tow truck in the county from a business office within the county without such a license;

(3) Determine the areas of the county that may be served for emergencies and accidents by each licensed operator;

(4) Set minimum limits of liability insurance for each licensed operator;

(5) Limit the number of towing services that may be operated within the county;

(6) Require designated towing vehicle specifications to be met by each licensed operator;

(7) Make it unlawful for operators to answer calls for assistance without having been called by a vehicle operator or law enforcement officer, or dispatched by the County Communications Center;

(8) Establish other necessary regulations consistent with and supplementary to any statute or regulation relating to vehicle towing services, and consistent with the promotion of the general welfare of the citizens and residents of Gaston County.

Before it may adopt an ordinance pursuant to this subsection, the Board of Commissioners must first hold a public hearing on the need for vehicle towing service regulations. The Board shall cause notice of the hearing to be published once a week for two successive weeks before the hearing. After the hearing the Board may adopt an ordinance if it finds that to do so is necessary to assure the provision of adequate and continuing vehicle towing service and to preserve, protect and promote the public health, safety and welfare.

If a person, firm, or corporation is providing vehicle towing services in a county or any portion thereof on the effective date of an ordinance adopted pursuant to this subsection, the person, firm or corporation is entitled to a license to continue to serve that part of the county in which the service is being provided. The Board of Commissioners shall determine whether the person, firm or corporation so entitled to a license is in compliance with any regulations that may be adopted by said Board of Commissioners, and if that is the case, the Board shall grant the license.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 654 CHAPTER 688

AN ACT TO ESTABLISH A PROCEDURE FOR REVOKING CONSENT TO ADOPTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-11 is amended by designating the present section as subsection (a) and adding a new subsection to read:

"(b) Revocation of a consent to adoption must be made in writing and must be signed by the person revoking consent before any person empowered to take acknowledgements of signatures pursuant to Chapter 47 of the General Statutes of North Carolina. If the petition for adoption and the consent have been filed according to G.S. 48-7(a), the person revoking the consent shall deliver the revocation to the clerk of court in the county in which the petition for adoption and the consent are filed. If the person revoking consent is unable to determine the county in which the petition for adoption and the consent have been filed or if the petition for adoption has not been filed, then and in that event said person is responsible for delivering the revocation in person or by registered or certified mail, return receipt requested, to the person or to the director of social services to whom the consent was given or to the duly licensed child-placing agency to which the consent for adoption was given. The person, the director of social services, or the duly licensed child-placing agency shall immediately deliver the revocation to the clerk of court in the county in which the petition for adoption and the consent are filed or, if a petition for adoption has not been filed by the prospective adoptive parents, revocation of the consent shall prohibit the filing of such petition."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 925 CHAPTER 689

AN ACT TO AMEND G.S. 58-43 RELATING TO NONRESIDENT AGENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-43 is amended in line 7 thereof by deleting the phrase "to represent the same company".

Sec. 2. G.S. 58-43 is further amended after the word "Chapter" by changing the period to a semicolon and adding the following: "provided, that the provisions of this sentence apply to the extent that the laws or regulations of the nonresident's home state make similar provisions for residents of North Carolina."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 1006 CHAPTER 690

AN ACT TO REQUIRE DESIGNATED AGENTS TO BE BONDED OR PROVIDE OTHER FORMS OF INDEMNIFICATION FOR AGGRIEVED PERSONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-248.33(g)(6) is amended by adding a new paragraph at the end to read:

"The Commissioner shall require, as a condition precedent to the issuance, renewal, or continuation of a resident agent's license to any designated agent to act for the company appointing such designated agent under contract with the Facility, that the designated agent file and thereafter maintain in force while so licensed a bond in favor of the State of North Carolina executed by an authorized corporate surety approved by the Commissioner, cash, mortgage on real property, or other securities approved by the Commissioner, in the amount of ten thousand dollars ($10,000) for the use of aggrieved persons. Such bond, cash, mortgage, or other securities shall be conditioned on the accounting by the designated agent (i) to any person requesting the designated agent to obtain motor vehicle insurance for monies or premiums collected in connection therewith, and (ii) to the company providing coverage with respect to any such monies or premiums under contract with the Facility. Any such bond shall remain in force until the surety is released from liability by the Commissioner, or until the bond is cancelled by the surety. Without prejudice to any liability accrued prior to such cancellation, the surety may cancel the bond upon 30 days' advance notice in writing filed with the Commissioner."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 1076 CHAPTER 691

AN ACT TO INCREASE MINIMUM REQUIREMENT FOR FINANCIAL RESPONSIBILITY PROOF OR SECURITY DEPOSIT REQUIREMENTS TO FIVE HUNDRED DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-279.4 is amended by deleting the words and figures "damage to the property of any one person in excess of two hundred dollars ($200.00) is sustained" and substituting "total property damage is five hundred dollars ($500.00) or more".

Sec. 2. G.S. 20-279.5(a) is amended by deleting the words and figures "damage to the property of any one person in excess of two hundred dollars ($200.00)" and substituting "total property damage in excess of five hundred dollars ($500.00)".

Sec. 3. This act shall become effective October 1, 1983, and shall apply to requirements resulting from accidents taking place on and after that date.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 1116 **CHAPTER 692**

AN ACT TO REQUIRE STATE AGENCIES AND POLITICAL SUBDIVISIONS TO COOPERATE IN EFFORTS TO PROMOTE THE USE OF SMALL, MINORITY, PHYSICALLY HANDICAPPED AND WOMEN CONTRACTORS IN PUBLIC CONSTRUCTION AND PURCHASING CONTRACTS.

Whereas, the most basic and important element of the American economic system of free enterprise is free and vigorous competition; and

Whereas, such free and vigorous competition increases personal initiative and individual achievement; and

Whereas, the majority of businesses in North Carolina are small in size or are owned by minorities, the physically handicapped or by women; and

Whereas, many small, minority, physically handicapped and women contractors able to perform the work and supply the materials specified in public contracts are unable to obtain such contracts; and

Whereas, encouraging and promoting the use of small, minority, physically handicapped and women contractors in performing the work or supplying the materials specified in public contracts would serve to stimulate free and vigorous competition in North Carolina and is therefore in the best interest of the State and its citizens; and

Whereas, the effective encouragement and promotion of the use of small, minority, physically handicapped and women contractors in State purchases and construction projects necessitates active cooperation among State agencies, institutions and political subdivisions in efforts to accomplish this purpose; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article 8 of General Statutes Chapter 143 is amended by adding a section to read:

"§ 143-135.5. *State policy; cooperation in promoting the use of small, minority, physically handicapped and women contractors; purpose.*—It is the policy of this State to encourage and promote the use of small, minority, physically handicapped and women contractors in State construction projects. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage and promote the use of small, minority, physically handicapped and women contractors in achieving the purpose of this Article, which is the effective and economical construction of public buildings."

Sec. 2. G.S. 143-48 is rewritten to read:

"§ 143-48. *State policy; cooperation in promoting the use of small, minority, physically handicapped and women contractors; purpose.*—It is the policy of this State to encourage and promote the use of small, minority, physically handicapped and women contractors in State purchasing of goods and services. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage the use of small, minority, physically handicapped and women contractors in achieving the purpose of this Article, which is to provide for the effective and economical acquisition,

management and disposition of goods and services by and through the Department of Administration."

Sec. 3. Article 2 of General Statutes Chapter 136 is amended by adding a section to read:

"§ 136-28.4. *State policy; cooperation in promoting the use of small, minority, physically handicapped and women contractors.*—It is the policy of this State to encourage and promote the use of small, minority, physically handicapped and women contractors in the construction, alteration and maintenance of State roads, streets, highways, and bridges and in the procurement of materials for such projects. All State agencies, institutions and political subdivisions shall cooperate with the Department of Transportation and all other State agencies, institutions and political subdivisions in efforts to encourage and promote the use of small, minority, physically handicapped and women contractors in such State construction, alteration, maintenance and procurement."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 1156 CHAPTER 693

AN ACT TO CLASSIFY FOR AD VALOREM TAX PURPOSES CERTAIN REAL PROPERTY OWNED BY NONPROFIT CORPORATIONS ORGANIZED FOR HISTORIC PRESERVATION PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is amended by adding at the end thereof a new subsection (29), to read as follows:

"(29) Real property and easements wholly and exclusively held and used for nonprofit historic preservation purposes by a nonprofit historical association or institution, including real property owned by a nonprofit corporation organized for historic preservation purposes and held by its owner exclusively for sale under an historic preservation agreement prepared and recorded under the provisions of the Conservation and Historic Preservation Agreements Act, Article 4, Chapter 121 of the General Statutes of North Carolina."

Sec. 2. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 1173 CHAPTER 694

AN ACT TO MODIFY THE BURDEN OF PROOF AND PUNISHMENT FOR ALLOWING PRISONERS TO ESCAPE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-239 is rewritten to read:

"§ 14-239. *Allowing prisoners to escape; punishment.*—If any sheriff, deputy sheriff, or jailer, shall willfully or wantonly allow the escape of any person committed to his custody who is (i) a person charged with a crime, or (ii) a person sentenced by the court upon conviction of any offense, he shall be guilty of a misdemeanor. No prosecution shall be brought against any such officer pursuant to this section by reason of a prisoner being allowed to participate pursuant to court order in any work release, work study, community service, or

other lawful program, or by reason of any such prisoner failing to return from participation in any such program."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 1215 CHAPTER 695

AN ACT TO CLASSIFY METHAQUALONE AS A SCHEDULE I CONTROLLED SUBSTANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-89(d) is amended by adding a new sub-subdivision to read:

"2. Methaqualone."

Sec. 2. G.S. 90-90(d)2 is repealed.

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 1226 CHAPTER 696

AN ACT TO CLARIFY THE TIME WHEN MUNICIPAL ORDINANCES ARE INTRODUCED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-75, as it appears in the 1980 Interim Supplement, is amended by adding the following language:

"For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the Council."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 1237 CHAPTER 697

AN ACT TO RESTORE THE 1975 LAW ON TERMINATION OF EMPLOYMENT OF A COUNTY SUPERVISOR OF ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. The last paragraph of G.S. 163-35(b) is deleted and the following inserted in lieu thereof:

"The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Secretary-Director of the State Board of Elections the termination of the employment of the county board's supervisor of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive Secretary-Director shall forward a copy of same by certified mail, return receipt requested, to the county supervisor of elections involved. The county supervisor of elections may reply to said petition within 15 days of receipt thereof. Within 20 days of receipt of the county supervisor of elections' reply or the expiration of the time period allowed for the filing of said reply, the State Executive Secretary-Director shall render a decision as to the termination or retention of the county supervisor of elections. The decision of the Executive Secretary-Director of the State Board of

Elections shall be final unless such decision shall, within 20 days from the official date on which it was made, be deferred by the State Board of Elections, in which event a public hearing shall be conducted by said State Board or any single member designated by the remaining four members, in the county seat of the county involved. Following the conduct of such public hearing and a decision by the State Board of Elections, the chairman of said Board shall notify the Executive Secretary-Director of the State Board of Elections, in writing, of the decision resulting from the public hearing. If the decision, rendered by the State Board of Elections, results in concurrence with the decision entered by the Executive Secretary-Director, the decision becomes final. If the decision rendered by the Board is contrary to that entered by the Executive Secretary-Director, then the Executive Secretary-Director shall, within 15 days from the written notification, enter an amended decision consistent with the results of the decision by the State Board of Elections. The employment of any supervisor of elections presently employed or hereafter employed shall not be terminated except in compliance with the procedures herein prescribed. For the purposes of this subsection the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23."

Sec. 2. This act is effective on October 1, 1983.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 1239 CHAPTER 698

AN ACT TO PROVIDE FOR DISPOSAL OF PERSONAL AND OTHER PROPERTY IN CONDEMNED BUILDINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-443(6) is amended by inserting the following language between "dwelling" and "and" in the second sentence thereof:

", and any personal property, fixtures or appurtenances found in or attached to the dwelling,".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 1284 CHAPTER 699

AN ACT AUTHORIZING REGISTERS OF DEEDS TO MAINTAIN COMPUTER INDEXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 161-22 is rewritten to read:

"§ 161-22. *Index of registered instruments.*—(a) The register of deeds shall provide and keep in her or his office full and complete alphabetical indexes of the names of the parties to all liens, grants, deeds, mortgages, bonds, and other instruments required or authorized to be registered, and such indexes shall state in full the names of all parties, whether grantors, grantees, vendors, vendees, obligors, or obligees. Reference shall be made, opposite each name, to the book and page or other location where the instrument is registered. All instruments

shall be indexed on either the temporary or permanent index within 24 hours of registration.

(b) In offices using the 'Family' index system, the index entry shall show the name of each party under the appropriate family name and the initials of the party under the appropriate alphabetical arrangement of the index. In offices using indexing systems having subdivisions of the letters of the alphabet, a registered instrument shall be deemed properly registered only when it has been indexed under the correct subdivision of the appropriate letter of the alphabet.

(c) Instruments affecting real property shall be indexed in the appropriate real property indexes, and instruments affecting personal property shall be indexed in the appropriate personal property indexes. Instruments affecting both real and personal property shall be indexed in both the real and personal property indexes.

(d) Deeds of trust may be indexed in the names of the grantor and trustee only.

(e) Certificates filed for recording pursuant to G.S. 59-2, the Uniform Limited Partnership Act, shall be indexed only under the names of the partnership and each of the general partners. The register of deeds shall cause a statement to be affixed or printed on the index page of the book or books in which limited partnership agreements are filed that such documents are indexed only in the names of the partnership and of each of the general partners.

(f) The alphabetical indexes required by this section may be maintained in index books, on index cards, on film, or in computers or other automated data-processing machines. If the index is maintained in a computer or other automated data processing machine, the register of deeds shall, at least once each month, obtain from the computer or other automated data-processing machine a printed copy on paper or film, or a tape or disk, of all index entries made since the previous printed or filmed copy, or tape or disk, was obtained. These printed or filmed copies, tapes or disks, shall be retained as security copies and may not be altered or destroyed until a subsequent security copy is made containing the index entries from all previous security copies.

(g) The register of deeds may adopt rules establishing indexing procedures and the format of the indexes. Such rules shall be in conformity with the requirements of this section and of other applicable statutes and may address such subjects, by way of example and not limitation, as the indexing of business firms, the indexing of names containing numerals, and the indexing of government agencies. Such rules shall be posted in at least two prominent places in the register of deeds' office and shall also be placed near the index books or in user manuals in offices using automated indexing systems. From and after the effective date of such rules, a registered instrument shall be deemed properly registered only when it has been indexed according to the rules.

(h) No instrument shall be deemed registered until it has been indexed as provided in this section.

(i) A violation of this section shall constitute a misdemeanor."

Sec. 2. G.S. 51-18 is rewritten to read:

"§ 51-18. *Record of license and returns; originals filed.*—The register of deeds shall maintain a separate index for marriage licenses and returns thereto. Each marriage license shall be indexed alphabetically according to the name of the proposed husband and proposed wife. Each index entry shall include, but not be

limited to, the full name of the intended husband and wife, the date the marriage ceremony was performed, and the location of the original license and the return thereon. The original license and return shall be filed and preserved."

Sec. 3. Chapter 127, 1983 Session Laws is repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

S. B. 506 CHAPTER 700

AN ACT TO STRENGTHEN THE ROLE OF POLITICAL PARTIES IN ELECTION FINANCING.

The General Assembly of North Carolina enacts:

Section 1. The second and third sentences of G.S. 163-278.42(a) are rewritten to read:

"The remaining fifty percent (50%) of such funds shall be allocated by the special committee established by subsection (d) of this section and used for one or more of the purposes permitted by subsection (e) of this section. Any candidate may elect to decline in whole or in part any funds that the party chooses to distribute to the candidate."

Sec. 2. The second and third sentences of G.S. 163-278.42(b) are rewritten to read:

"The remaining fifty percent (50%) of such funds shall be allocated by the special committee established in subsection (d) of this section and used for one or more of the purposes permitted by subsection (e) of this section. Any candidate may elect to decline in whole or in part any funds that the party chooses to distribute to the candidate."

Sec. 3. G.S. 163-278.42(d) is rewritten to read:

"(d) The allocation of the remaining fifty percent (50%) of the funds under subsections (a) or (b) of this section shall be made by a committee composed of the State Chairman of that political party, the Treasurer of that party, the Congressional District Chairmen of that party, and two persons appointed by the State Chairman of that party, and the State Chairman shall serve as Chairman of this committee. The allocation of funds shall be in the sole discretion of the committee, but must be for a purpose permitted by section (e) of this section and if allocated to a candidate, shall be disbursed by the State Chairman of that party only to the Treasurer of that candidate or committee appointed under Article 22A of this Chapter."

Sec. 4. G.S. 163-278.42(e) is amended by adding new subdivisions to read:

"(4a) Expenses to ensure compliance with federal and State campaign finance and reporting laws;

(4b) Contributions to or expenses on behalf of candidates of that political party;".

Sec. 5. G.S. 163-278.41(a) is amended by deleting the words "among the candidates qualified therefor" both times those words appear.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of July, 1983.

H. B. 96 **CHAPTER 701**

AN ACT TO SIMPLIFY AND CODIFY THE RULES OF EVIDENCE.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is added to the General Statutes to read:

"CHAPTER 8B.

"Evidence Code.

"§ 8B-1. *Rules of evidence.*—The North Carolina Rules of Evidence are as follows:

"ARTICLE 1.

"General Provisions.

"Rule 101. *Scope.*

These rules govern proceedings in the courts of this State to the extent and with the exceptions stated in Rule 1101.

"Rule 102. *Purpose and Construction.*

(a) In General. These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

(b) Subordinate Divisions. For the purpose of these rules only, the subordinate division of any rule which is labeled with a lower case letter shall be a subdivision.

"Rule 103. *Rulings on Evidence.*

(a) Effect of Erroneous Ruling. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and

(1) Objection. In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record. No particular form is required in order to preserve the right to assert the alleged error upon appeal if the motion or objection clearly presented the alleged error to the trial court;

(2) Offer of Proof. In case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked.

(b) Record of Offer and Ruling. The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. It may direct the making of an offer in question and answer form.

(c) Hearing of Jury. In jury cases, proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.

(d) Review of Errors Where Justice Requires. Notwithstanding the requirements of subdivision (a) of this rule, an appellate court may review errors affecting substantial rights if it determines, in the interest of justice, it is appropriate to do so.

"Rule 104. *Preliminary Questions.*

(a) Questions of Admissibility Generally. Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the

provisions of subdivision (b). In making its determination it is not bound by the rules of evidence except those with respect to privileges.

(b) Relevancy Conditioned on Fact. When the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

(c) Hearing of Jury. Hearings on the admissibility of confessions or other motions to suppress evidence in criminal trials in Superior Court shall in all cases be conducted out of the hearing of the jury. Hearings on other preliminary matters shall be so conducted when the interests of justice require or, when an accused is a witness, if he so requests.

(d) Testimony by Accused. The accused does not, by testifying upon a preliminary matter, subject himself to cross-examination as to other issues in the case.

(e) Weight and Credibility. This rule does not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

"Rule 105. *Limited Admissibility.*

When evidence which is admissible as to one party or for one purpose but not admissible as to another party or for another purpose is admitted, the court, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

"Rule 106. *Remainder of or Related Writings or Recorded Statements.*

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require him at that time to introduce any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

"ARTICLE 2.

"Judicial Notice.

"Rule 201. *Judicial Notice of Adjudicative Facts.*

(a) Scope of Rule. This rule governs only judicial notice of adjudicative facts.

(b) Kinds of Facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(c) When Discretionary. A court may take judicial notice, whether requested or not.

(d) When Mandatory. A court shall take judicial notice if requested by a party and supplied with the necessary information.

(e) Opportunity to be Heard. In a trial court, a party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.

(f) Time of Taking Notice. Judicial notice may be taken at any stage of the proceeding.

(g) Instructing Jury. In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

"ARTICLE 3.

"Presumptions in Civil Actions and Proceedings.

"Rule 301. *Presumptions in General in Civil Actions and Proceedings.*

In all civil actions and proceedings when not otherwise provided for by statute, by judicial decision, or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast. The burden of going forward is satisfied by the introduction of evidence sufficient to permit reasonable minds to conclude that the presumed fact does not exist. If the party against whom a presumption operates fails to meet the burden of producing evidence, the presumed fact shall be deemed proved, and the court shall instruct the jury accordingly. When the burden of producing evidence to meet a presumption is satisfied, the court must instruct the jury that it may, but is not required to, infer the existence of the presumed fact from the proved fact.

"Rule 302. *Applicability of Federal Law in Civil Actions and Proceedings.*

In civil actions and proceedings, the effect of a presumption respecting a fact which is an element of a claim or defense as to which federal law supplies the rule of decision is determined in accordance with federal law.

"ARTICLE 4.

"Relevancy and Its Limits.

"Rule 401. *Definition of 'Relevant Evidence'.*

'Relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

"Rule 402. *Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible.*

All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by the Constitution of North Carolina, by Act of Congress, by Act of the General Assembly or by these rules. Evidence which is not relevant is not admissible.

"Rule 403. *Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time.*

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

"Rule 404. *Character Evidence not Admissible to Prove Conduct; Exceptions; Other Crimes.*

(a) Character Evidence Generally. Evidence of a person's character or a trait of his character is not admissible for the purpose of proving that he acted in conformity therewith on a particular occasion, except:

(1) Character of Accused. Evidence of a pertinent trait of his character offered by an accused, or by the prosecution to rebut the same;

(2) Character of Victim. Evidence of a pertinent trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;

(3) Character of Witness. Evidence of the character of a witness, as provided in Rules 607, 608, and 609.

(b) Other Crimes, Wrongs, or Acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake, entrapment or accident.

"Rule 405. *Methods of Proving Character.*

(a) Reputation or Opinion. In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry is allowable into relevant specific instances of conduct. Expert testimony on character or a trait of character is not admissible as circumstantial evidence of behavior.

(b) Specific Instances of Conduct. In cases in which character or a trait of character of a person is an essential element of a charge, claim, or defense, proof may also be made of specific instances of his conduct.

"Rule 406. *Habit; Routine Practice.*

Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

"Rule 407. *Subsequent Remedial Measures.*

When, after an event, measures are taken which, if taken previously, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if those issues are controverted, or impeachment.

"Rule 408. *Compromise and Offers to Compromise.*

Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or evidence of statements made in compromise negotiations is likewise not admissible. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negativing a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

"Rule 409. *Payment of Medical and Other Expenses.*

Evidence of furnishing or offering or promising to pay medical, hospital, or other expenses occasioned by an injury is not admissible to prove liability for the injury.

"Rule 410. *Inadmissibility of Pleas, Plea Discussions, and Related Statements.*

Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible for or against the defendant who made the plea or was a participant in the plea discussions:

(1) a plea of guilty which was later withdrawn;

(2) a plea of no contest;

(3) any statement made in the course of any proceedings under Article 58 of Chapter 15A of the General Statutes or comparable procedure in district court, or proceedings under Rule 11 of the Federal Rules of Criminal Procedure or comparable procedure in another state, regarding a plea of guilty which was later withdrawn or a plea of no contest;

(4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn.

However, such a statement is admissible in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought in fairness be considered contemporaneously with it.

"Rule 411. *Liability Insurance.*

Evidence that a person was or was not insured against liability is not admissible upon the issue whether he acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

"Rule 412. *Rape or Sex Offense Cases; Relevance of Victim's Past Behavior.*

(a) As used in this rule, the term 'sexual behavior' means sexual activity of the complainant other than the sexual act which is at issue in the indictment on trial.

(b) Notwithstanding any other provision of law, the sexual behavior of the complainant is irrelevant to any issue in the prosecution unless such behavior:

(1) was between the complainant and the defendant; or

(2) is evidence of specific instances of sexual behavior offered for the purpose of showing that the act or acts charged were not committed by the defendant; or

(3) is evidence of a pattern of sexual behavior so distinctive and so closely resembling the defendant's version of the alleged encounter with the complainant as to tend to prove that such complainant consented to the act or acts charged or behaved in such a manner as to lead the defendant reasonably to believe that the complainant consented; or

(4) is evidence of sexual behavior offered as the basis of expert psychological or psychiatric opinion that the complainant fantasized or invented the act or acts charged.

(c) Sexual behavior otherwise admissible under this rule may not be proved by reputation or opinion.

(d) Notwithstanding any other provision of law, no evidence of sexual behavior shall be introduced at any time during the trial of a charge of rape or any lesser included offense thereof or a sex offense or any lesser included offense thereof, nor shall any reference to any such behavior be made in the presence of the jury, unless and until the court has determined that such behavior is relevant under subdivision (b). Before any questions pertaining to such evidence are asked of any witness, the proponent of such evidence shall first apply to the

court for a determination of the relevance of the sexual behavior to which it relates. The proponent of such evidence may make application either prior to trial pursuant to G.S. 15A-952, or during the trial at the time when the proponent desires to introduce such evidence. When application is made, the court shall conduct an *in camera* hearing, which shall be transcribed, to consider the proponent's offer of proof and the arguments of counsel, including any counsel for the complainant, to determine the extent to which such behavior is relevant. In the hearing, the proponent of the evidence shall establish the basis of admissibility of such evidence. Notwithstanding subdivision (b) of Rule 104, if the relevancy of the evidence which the proponent seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the *in camera* hearing or at a subsequent *in camera* hearing scheduled for that purpose, shall accept evidence on the issue of whether that condition of fact is fulfilled and shall determine that issue. If the court finds that the evidence is relevant, it shall enter an order stating that the evidence may be admitted and the nature of the questions which will be permitted.

(e) The record of the *in camera* hearing and all evidence relating thereto shall be open to inspection only by the parties, the complainant, their attorneys and the court and its agents, and shall be used only as necessary for appellate review. At any probable cause hearing, the judge shall take cognizance of the evidence, if admissible, at the end of the *in camera* hearing without the questions being repeated or the evidence being re-submitted in open court.

"ARTICLE 5.

"Privileges.

"Rule 501. *General Rule.*

Except as otherwise required by the Constitution of the United States, the privileges of a witness, person, government, state, or political subdivision thereof shall be determined in accordance with the law of this State.

"ARTICLE 6.

"Witnesses.

"Rule 601. *General Rule of Competency; Disqualification of Witness.*

(a) General Rule. Every person is competent to be a witness except as otherwise provided in these rules.

(b) Disqualification of Witness in General. A person is disqualified to testify as a witness when the court determines that he is (1) incapable of expressing himself concerning the matter as to be understood, either directly or through interpretation by one who can understand him, or (2) incapable of understanding the duty of a witness to tell the truth.

(c) Disqualification of Interested Persons. Upon the trial of an action, or the hearing upon the merits of a special proceeding, a party or a person interested in the event, or a person from, through or under whom such a party or interested person derives his interest or title by assignment or otherwise, shall not be examined as a witness in his own behalf or interest, or in behalf of the party succeeding to his title or interest, against the executor, administrator or survivor of a deceased person, or the committee of a lunatic, or a person deriving his title or interest from, through or under a deceased person or lunatic, by assignment or otherwise, concerning any oral communication between the witness and the deceased person or lunatic. However, this subdivision shall not apply when:

(1) The executor, administrator, survivor, committee or person so deriving title or interest is examined in his own behalf regarding the subject matter of the oral communication.

(2) The testimony of the lunatic or deceased person is given in evidence concerning the same transaction or communication.

(3) Evidence of the subject matter of the oral communication is offered by the executor, administrator, survivor, committee or person so deriving title or interest.

Nothing in this subdivision shall preclude testimony as to the identity of the operator of a motor vehicle in any case.

"Rule 602. *Lack of Personal Knowledge.*

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that he has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the testimony of the witness himself. This rule is subject to the provisions of Rule 703, relating to opinion testimony by expert witnesses.

"Rule 603. *Oath or Affirmation.*

Before testifying, every witness shall be required to declare that he will testify truthfully, by oath or affirmation administered in a form calculated to awaken his conscience and impress his mind with his duty to do so.

"Rule 604. *Interpreters.*

An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation that he will make a true translation.

"Rule 605. *Competency of Judge as Witness.*

The judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve the point.

"Rule 606. *Competency of Juror as Witness.*

(a) At the Trial. A member of the jury may not testify as a witness before that jury in the trial of the case in which he is sitting as a juror. If he is called so to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.

(b) Inquiry Into Validity of Verdict or Indictment. Upon an inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of the jury's deliberations or to the effect of anything upon his or any other juror's mind or emotions as influencing him to assent to or dissent from the verdict or indictment or concerning his mental processes in connection therewith, except that a juror may testify on the question whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror. Nor may his affidavit or evidence of any statement by him concerning a matter about which he would be precluded from testifying be received for these purposes.

"Rule 607. *Who May Impeach.*

The credibility of a witness may be attacked by any party, including the party calling him.

"Rule 608. *Evidence of Character and Conduct of Witness.*

(a) Opinion and Reputation Evidence of Character. The credibility of a witness may be attacked or supported by evidence in the form of reputation or opinion as provided in Rule 405(a), but subject to these limitations: (1) the

evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

(b) Specific Instances of Conduct. Specific instances of the conduct of a witness, for the purpose of attacking or supporting his credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness (1) concerning his character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of his privilege against self-incrimination when examined with respect to matters which relate only to credibility.

"Rule 609. *Impeachment by Evidence of Conviction of Crime.*

(a) General Rule. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime punishable by more than 60 days confinement shall be admitted if elicited from him or established by public record during cross-examination or thereafter.

(b) Time Limit. Evidence of a conviction under this rule is not admissible if a period of more than 10 years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) Effect of Pardon. Evidence of a conviction is not admissible under this rule if the conviction has been pardoned.

(d) Juvenile Adjudications. Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(e) Pendency of Appeal. The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

"Rule 610. *Religious Beliefs or Opinions.*

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature his credibility is impaired or enhanced; provided, however, such evidence may be admitted for the purpose of showing interest or bias.

"Rule 611. *Mode and Order of Interrogation and Presentation.*

(a) Control by Court. The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the

truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of Cross-examination. A witness may be cross-examined on any matter relevant to any issue in the case, including credibility.

(c) Leading Questions. Leading questions should not be used on the direct examination of a witness except as may be necessary to develop his testimony. Ordinarily leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

"Rule 612. *Writing or Object Used to Refresh Memory.*

(a) While Testifying. If, while testifying, a witness uses a writing or object to refresh his memory, an adverse party is entitled to have the writing or object produced at the trial, hearing, or deposition in which the witness is testifying.

(b) Before Testifying. If, before testifying, a witness uses a writing or object to refresh his memory for the purpose of testifying and the court in its discretion determines that the interests of justice so require, an adverse party is entitled to have those portions of any writing or of the object which relate to the testimony produced, if practicable, at the trial, hearing, or deposition in which the witness is testifying.

(c) Terms and Conditions of Production and Use. A party entitled to have a writing or object produced under this rule is entitled to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness. If production of the writing or object at the trial, hearing, or deposition is impracticable, the court may order it made available for inspection. If it is claimed that the writing or object contains privileged information or information not directly related to the subject matter of the testimony, the court shall examine the writing or object *in camera*, excise any such portions, and order delivery of the remainder to the party entitled thereto. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal. If a writing or object is not produced, made available for inspection, or delivered pursuant to order under this rule, the court shall make any order justice requires, but in criminal cases if the prosecution elects not to comply, the order shall be one striking the testimony or, if justice so requires, declaring a mistrial.

"Rule 613. *Prior Statements of Witnesses.*

In examining a witness concerning a prior statement made by him, whether written or not, the statement need not be shown nor its contents disclosed to him at that time, but on request the same shall be shown or disclosed to opposing counsel.

"Rule 614. *Calling and Interrogation of Witnesses by Court*

(a) Calling by Court. The court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.

(b) Interrogation by Court. The court may interrogate witnesses, whether called by itself or by a party.

(c) Objections. No objections are necessary with respect to the calling of a witness by the court or to questions propounded to a witness by the court but it shall be deemed that proper objection has been made and overruled.

"Rule 615. *Exclusion of Witnesses.*

At the request of a party the court may order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party that is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of his cause, or (4) a person whose presence is determined by the court to be in the interest of justice.

"ARTICLE 7.

"Opinions and Expert Testimony.

"Rule 701. *Opinion Testimony by Lay Witness.*

If the witness is not testifying as an expert, his testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of his testimony or the determination of a fact in issue.

"Rule 702. *Testimony by Experts.*

If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion.

"Rule 703. *Bases of Opinion Testimony by Experts.*

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

"Rule 704. *Opinion on Ultimate Issue.*

Testimony in the form of an opinion or inference is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

"Rule 705. *Disclosure of Facts or Data Underlying Expert Opinion.*

The expert may testify in terms of opinion or inference and give his reasons therefor without prior disclosure of the underlying facts or data, unless an adverse party requests otherwise, in which event the expert will be required to disclose such underlying facts or data on direct examination or *voir dire* before stating the opinion. The expert may in any event be required to disclose the underlying facts or data on cross-examination. There shall be no requirement that expert testimony be in response to a hypothetical question.

"Rule 706. *Court Appointed Experts.*

(a) Appointment. The court may on its own motion or on the motion of any party enter an order to show cause why expert witnesses should not be appointed, and may request the parties to submit nominations. The court may appoint any expert witnesses agreed upon by the parties, and may appoint witnesses of its own selection. An expert witness shall not be appointed by the court unless he consents to act. A witness so appointed shall be informed of his duties by the court in writing, a copy of which shall be filed with the clerk, or at a conference in which the parties shall have opportunity to participate. A witness so appointed shall advise the parties of his findings, if any; his deposition may be taken by any party; and he may be called to testify by the court or any party. He shall be subject to cross-examination by each party, including a party calling him as a witness.

(b) Compensation. Expert witnesses so appointed are entitled to reasonable compensation in whatever sum the court may allow. The compensation thus fixed is payable from funds which may be provided by law in criminal cases and civil actions and proceedings involving just compensation for the taking of property. In other civil actions and proceedings the compensation shall be paid by the parties in such proportion and at such time as the court directs, and thereafter charged in like manner as other costs.

(c) Disclosure of Appointment. In the exercise of its discretion, the court may authorize disclosure to the jury of the fact that the court appointed the expert witness.

(d) Parties' Experts of Own Selection. Nothing in this rule limits the parties in calling expert witnesses of their own selection.

"ARTICLE 8.

"Hearsay.

"Rule 801. *Definitions and Exception for Admissions of a Party-Opponent.*

The following definitions apply under this Article:

(a) Statement. A 'statement' is (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by him as an assertion.

(b) Declarant. A 'declarant' is a person who makes a statement.

(c) Hearsay. 'Hearsay' is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) Exception for Admissions by a Party-Opponent. A statement is admissible as an exception to the hearsay rule if it is offered against a party and it is (A) his own statement, in either his individual or a representative capacity, or (B) a statement of which he has manifested his adoption or belief in its truth, or (C) a statement by a person authorized by him to make a statement concerning the subject, or (D) a statement by his agent or servant concerning a matter within the scope of his agency or employment, made during the existence of the relationship or (E) a statement by a coconspirator of such party during the course and in furtherance of the conspiracy.

"Rule 802. *Hearsay Rule.*

Hearsay is not admissible except as provided by statute or by these rules.

"Rule 803. *Hearsay Exceptions; Availability of Declarant Immaterial*

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) Present Sense Impression. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) Excited Utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) Then Existing Mental, Emotional, or Physical Condition. A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) Statements for Purposes of Medical Diagnosis or Treatment. Statements made for purposes of medical diagnosis or treatment and describing medical

history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

(5) Recorded Recollection. A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable him to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in his memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

(6) Records of Regularly Conducted Activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term 'business' as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(7) Absence of Entry in Records Kept in Accordance with the Provisions of Paragraph (6). Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) Public Records and Reports. Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or (C) in civil actions and proceedings and against the State in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.

(9) Records of Vital Statistics. Records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law.

(10) Absence of Public Record or Entry. To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with Rule 902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(11) Records of Religious Organizations. Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or

other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) Marriage, Baptismal, and Similar Certificates. Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

(13) Family Records. Statements of fact concerning personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

(14) Records of Documents Affecting an Interest in Property. The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorizes the recording of documents of that kind in that office.

(15) Statements in Documents Affecting an Interest in Property. A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

(16) Statements in Ancient Documents. Statements in a document in existence 20 years or more the authenticity of which is established.

(17) Market Reports, Commercial Publications. Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.

(18) Learned Treatises. To the extent called to the attention of an expert witness upon cross-examination or relied upon by him in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.

(19) Reputation Concerning Personal or Family History. Reputation among members of his family by blood, adoption, or marriage, or among his associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of his personal or family history.

(20) Reputation Concerning Boundaries or General History. Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located.

(21) Reputation as to Character. Reputation of a person's character among his associates or in the community.

(22) (Reserved).

(23) Judgment as to Personal, Family or General History, or Boundaries. Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.

(24) Other Exceptions. A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it gives written notice stating his intention to offer the statement and the particulars of it, including the name and address of the declarant, to the adverse party sufficiently in advance of offering the statement to provide the adverse party with a fair opportunity to prepare to meet the statement.

"Rule 804. *Hearsay Exceptions; Declarant Unavailable.*

(a) Definition of Unavailability. 'Unavailability as a witness' includes situations in which the declarant:

(1) Is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of his statement; or

(2) Persists in refusing to testify concerning the subject matter of his statement despite an order of the court to do so; or

(3) Testifies to a lack of memory of the subject matter of his statement; or

(4) Is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) Is absent from the hearing and the proponent of his statement has been unable to procure his attendance (or in the case of a hearsay exception under subdivision (b) (2), (3), or (4), his attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if his exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of his statement for the purpose of preventing the witness from attending or testifying.

(b) Hearsay Exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former Testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) Statement Under Belief of Impending Death. A statement made by a declarant while believing that his death was imminent, concerning the cause or circumstances of what he believed to be his impending death.

(3) Statement Against Interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject him to civil or criminal liability, or to render invalid a claim by him against another, that a reasonable man in his position would not have made the statement unless he believed it to be true. A statement tending to expose the declarant to criminal

liability is not admissible in a criminal case unless corroborating circumstances clearly indicate the trustworthiness of the statement.

(4) Statement of Personal or Family History. (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

(5) Other Exceptions. A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it gives written notice stating his intention to offer the statement and the particulars of it, including the name and address of the declarant, to the adverse party sufficiently in advance of offering the statement to provide the adverse party with a fair opportunity to prepare to meet the statement.

"Rule 805. *Hearsay Within Hearsay.*

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statements conforms with an exception to the hearsay rule provided in these rules.

"Rule 806. *Attacking and Supporting Credibility of Declarant.*

When a hearsay statement has been admitted in evidence, the credibility of the declarant may be attacked, and if attacked may be supported, by any evidence which would be admissible for those purposes if declarant had testified as a witness. Evidence of a statement or conduct by the declarant at any time, inconsistent with his hearsay statement, is not subject to any requirement that he may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the declarant as a witness, the party is entitled to examine him on the statement as if under cross-examination.

"ARTICLE 9.

"Authentication and Identification.

"Rule 901. *Requirement of Authentication or Identification.*

(a) General Provision. The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

(b) Illustrations. By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this rule:

(1) Testimony of Witness with Knowledge. Testimony that a matter is what it is claimed to be.

(2) Nonexpert Opinion on Handwriting. Nonexpert opinion as to the genuineness of handwriting, based upon familiarity not acquired for purposes of the litigation.

(3) Comparison by Trier or Expert Witness. Comparison by the trier of fact or by expert witnesses with specimens which have been authenticated.

(4) Distinctive Characteristics and the Like. Appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances.

(5) Voice Identification. Identification of a voice, whether heard firsthand or through mechanical or electronic transmission or recording, by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker.

(6) Telephone Conversations. Telephone conversations, by evidence that a call was made to the number assigned at the time by the telephone company to a particular person or business, if (A) in the case of a person, circumstances, including self-identification, show the person answering to be the one called, or (B) in the case of a business, the call was made to a place of business and the conversation related to business reasonably transacted over the telephone.

(7) Public Records or Reports. Evidence that a writing authorized by law to be recorded or filed and in fact recorded or filed in a public office, or a purported public record, report, statement, or data compilation, in any form, is from the public office where items of this nature are kept.

(8) Ancient Documents or Data Compilations. Evidence that a document or data compilation, in any form, (A) is in such condition as to create no suspicion concerning its authenticity, (B) was in a place where it, if authentic, would likely be, and (C) has been in existence 20 years or more at the time it is offered.

(9) Process or System. Evidence describing a process or system used to produce a result and showing that the process or system produces an accurate result.

(10) Methods Provided by Statute. Any method of authentication or identification provided by statute.

"Rule 902. *Self-Authentication.*

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(1) Domestic Public Documents Under Seal. A document bearing a seal purporting to be that of the United States, or of any state, district, commonwealth, territory or insular possession thereof, or the Trust Territory of the Pacific Islands, or of a political subdivision, department, officer, or agency thereof, and a signature purporting to be an attestation or execution.

(2) Domestic Public Documents Not Under Seal. A document purporting to bear the signature in his official capacity of an officer or employee of any entity included in paragraph (1) hereof, having no seal, if a public officer having a seal and having official duties in the district or political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine.

(3) Foreign Public Documents. A document purporting to be executed or attested in his official capacity by a person authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final

certification as to the genuineness of the signature and official position (A) of the executing or attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of official documents, the court may, for good cause shown, order that they be treated as presumptively authentic without final certification or permit them to be evidenced by an attested summary with or without final certification.

(4) Certified Copies of Public Records. A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with paragraph (1), (2), or (3) or complying with any law of the United States or of this State.

(5) Official Publications. Books, pamphlets, or other publications purporting to be issued by public authority.

(6) Newspapers and Periodicals. Printed materials purporting to be newspapers or periodicals.

(7) Trade Inscriptions and the Like. Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin.

(8) Acknowledged Documents. Documents accompanied by a certificate of acknowledgment executed in the manner provided by law by a notary public or other officer authorized by law to take acknowledgments.

(9) Commercial Paper and Related Documents. Commercial paper, signatures thereon, and documents relating thereto to the extent provided by general commercial law.

(10) Presumptions Created by Law. Any signature, document, or other matter declared by any law of the United States or of this State to be presumptively or *prima facie* genuine or authentic.

"Rule 903. *Subscribing Witness' Testimony Unnecessary.*

The testimony of a subscribing witness is not necessary to authenticate a writing unless required by the laws of the jurisdiction whose laws govern the validity of the writing.

"ARTICLE 10.

"Contents of Writings, Recordings and Photographs.

"Rule 1001. *Definitions.*

For the purposes of this Article the following definitions are applicable:

(1) Writings and Recordings. 'Writings' and 'recordings' consist of letters, words, sounds, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

(2) Photographs. 'Photographs' include still photographs, x-ray films, video tapes, and motion pictures.

(3) Original. An 'original' of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An 'original' of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an 'original'.

(4) Duplicate. A 'duplicate' is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original.

"Rule 1002. *Requirement of Original.*

To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules or by statute.

"Rule 1003. *Admissibility of Duplicates.*

A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate in lieu of the original.

"Rule 1004. *Admissibility of Other Evidence of Contents.*

The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible if:

(1) Originals Lost or Destroyed. All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith; or

(2) Original Not Obtainable. No original can be obtained by any available judicial process or procedure; or

(3) Original in Possession of Opponent. At a time when an original was under the control of a party against whom offered, he was put on notice, by the pleadings or otherwise, that the contents would be a subject of proof at the hearing, and he does not produce the original at the hearing; or

(4) Collateral Matters. The writing, recording, or photograph is not closely related to a controlling issue.

"Rule 1005. *Public Records.*

The contents of an official record, or of a document authorized to be recorded or filed and actually recorded or filed, including data compilations in any form, if otherwise admissible, may be proved by copy, certified as correct in accordance with Rule 902 or testified to be correct by a witness who has compared it with the original. If a copy which complies with the foregoing cannot be obtained by the exercise of reasonable diligence, then other evidence of the contents may be given.

"Rule 1006. *Summaries.*

The contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in court may be presented in the form of a chart, summary, or calculation. The originals, or duplicates, shall be made available for examination or copying, or both, by other parties at a reasonable time and place. The court may order that they be produced in court.

"Rule 1007. *Testimony or Written Admission of Party.*

Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by his written admission, without accounting for the nonproduction of the original.

"Rule 1008. *Functions of Court and Jury.*

When the admissibility of other evidence of contents of writings, recordings, or photographs under these rules depends upon the fulfillment of a condition of fact, the question whether the condition has been fulfilled is ordinarily for the court to determine in accordance with the provisions of Rule 104. However, when an issue is raised (a) whether the asserted writing ever existed, or (b) whether another writing, recording, or photograph produced at the trial is the original, or (c) whether other evidence of contents correctly reflects the contents, the issue is for the trier of fact to determine as in the case of other issues of fact.

"ARTICLE 11.

"Miscellaneous Rules.

"Rule 1101. *Applicability of Rules.*

(a) Proceedings Generally. Except as otherwise provided in subdivision (b) or by statute, these rules apply to all actions and proceedings in the courts of this State.

(b) Rules Inapplicable. The rules other than those with respect to privileges do not apply in the following situations:

(1) Preliminary Questions of Fact. The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under Rule 104(a).

(2) Grand Jury. Proceedings before grand juries.

(3) Miscellaneous Proceedings. Proceedings for extradition or rendition; first appearance before district court judge on probable cause hearing in criminal cases; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; proceedings with respect to release on bail or otherwise; juvenile proceedings, except those under G.S. 7A-634(a).

(4) Contempt Proceedings. Contempt proceedings in which the court is authorized by law to act summarily.

"Rule 1102. *Short Title.*

These rules shall be known and may be cited as the 'North Carolina Rules of Evidence'."

Sec. 2. The Revisor of Statutes shall cause the Commentary to each rule to be printed with the rule in the General Statutes. The Commentary is found in the Report on Evidence Laws of the 1983 General Assembly. In order to clarify legislative intent or reflect amendments to the rules, any changes to the Commentary made during legislative consideration of this act shall be incorporated into the Commentary by the Revisor of Statutes.

Sec. 3. This act shall become effective July 1, 1984, and shall apply to actions and proceedings commenced after that date. This act shall also apply to further procedure in actions and proceedings then pending, except to the extent that application of the act would not be feasible or would work injustice, in which event former evidentiary principles apply.

In the General Assembly read three times and ratified, this the 7th day of July, 1983.

S. B. 508

CHAPTER 702

AN ACT TO CLARIFY THE STATE TREASURER'S INVESTMENT AUTHORITY AND TO ENHANCE THE MANAGEMENT OF THE TRUST FUND INVESTMENT PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-69.2(a)(8) is amended by inserting after the word "Firemen's" the words "and Rescue Workers'".

Sec. 2. G.S. 147-69.2(b) is amended by adding a new subsection (5a) to read:

"With respect to Retirement Systems' assets referred to in G.S. 147-69.2(b)(6), (i) Insurance contracts which provide for participation in individual or pooled separate accounts of insurance companies, (ii) group trusts, (iii) individual, common or collective trust funds of banks and trust companies and (iv) real estate investment trusts; provided the investment manager has assets under management of at least one hundred million dollars ($100,000,000); provided such investment assets are managed primarily for the purpose of investing in or owning real estate or related debt financing located in the United States; and provided that the investment authorized by this subsection shall not exceed ten percent (10%) of the book value of all invested assets of the Retirement Systems."

Sec. 3. G.S. 147-69.2(b)(6) is amended by adding after the word "Firemen's" in line 4 the words "and Rescue Workers'".

Sec. 4. G.S. 147-69.2(b)(6)c. is amended by adding after the word "Act" in the second line the words "or quoted through the National Association of Securities Dealers' Automated Quotations (NASDAQ) system".

Sec. 5. G.S. 147-69.2(b)(6)c.1. is amended by inserting after the word "bank" in the first line the words "or bank holding company".

Sec. 6. G.S. 147-69.2(b)(6)f. is amended by inserting the phrase "5-year period" in place of the phrase "10-year period" in the second line.

Sec. 7. G.S. 147-69.2(b)(6)h. is amended by inserting after the word "stocks" in the first line the words "including securities convertible into common stocks".

Sec. 8. G.S. 147-69.2(b)(6)h. is further amended by adding a new subsection "4" to read:

"Up to five per cent (5%) of the limits authorized in subdivision h. may be invested in the stocks or shares of a diversified investment company registered under the 'Investment Company Act of 1940' which has total assets of at least fifty million dollars ($50,000,000)."

Sec. 9. G.S. 147-69.2(b)(6) is amended by adding a new subsection "i" to read:

"That investments may be made in securities convertible into common stocks issued by any such company, if such securities bear one of the four highest ratings of at least one nationally recognized rating service and do not bear a rating below the four highest by any nationally recognized rating service which may then rate the particular security."

Sec. 10. G.S. 147-69.3(b) is amended by adding a sentence at the end thereof to read:

"Upon request from any depositor eligible under this subsection, the State Treasurer may authorize moneys invested pursuant to this subsection to be withdrawn by warrant on the State Treasurer."

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1983.

S. B. 384 CHAPTER 703

AN ACT TO PERMIT THE LOCAL BOARDS OF EDUCATION IN AVERY AND WATAUGA COUNTIES TO SCHEDULE LONGER SCHOOL DAYS SO AS TO OFFSET DAYS LOST DUE TO INCLEMENT WEATHER.

The General Assembly of North Carolina enacts:

Section 1. A local board of education may schedule school days longer than the minimum required six instructional hours so as to offset days lost due to inclement weather. For the purposes of computing the length of the school term and determining pay of school personnel, every additional hour scheduled may be used to offset one-sixth of a school day lost due to inclement weather.

Sec. 2. This act applies only to the counties of Avery and Watauga. The boards of education of these two counties shall evaluate the educational effectiveness of this type of scheduling and shall report the results of this evaluation to the State Board of Education for the first two years following the ratification of this act.

Sec. 3. This act is effective upon ratification and shall apply to school years beginning with the 1983-84 school year.

In the General Assembly read three times and ratified, this the 7th day of July, 1983.

S. B. 424 CHAPTER 704

AN ACT RELATING TO THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-285 is amended in the last line following "citizens" and before the "." by adding the following words "and to protect and preserve the investments and properties of the citizens of this State".

Sec. 2. G.S. 20-286(3) is amended in the last line following "State" and before the "." by adding the following words and punctuation ", or who controls any person, firm, association, corporation or trust, resident or nonresident, who in whole or in part offers for sale, sells or distributes any motor vehicle to any motor vehicle dealer in this State".

Sec. 3. G.S. 20-286 is amended by adding the following new subsections:

"(17) 'Good faith' means honesty in fact and the observation of reasonable commercial standards of fair dealing in the trade as defined and interpreted in G.S. 25-2-103(1)(b).

(18) 'Designated family member' means the spouse, child, grandchild, parent, brother, or sister of a dealer, who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the

dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who under the laws of intestate succession of this State is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.

(19) 'Relevant market area' or 'trade area' means the area within a radius of 20 miles around an existing dealer or the area of responsibility defined in the franchise, whichever is greater; except that, where a manufacturer is seeking to establish an additional new motor vehicle dealer the relevant market area shall be as follows:

a. If the population in an area within a radius of 10 miles around the proposed site is 250,000 or more, the relevant market area shall be that area within the 10 mile radius; or

b. If the population in an area within a radius of 10 miles around the proposed site is less than 250,000, but the population in an area within a radius of 15 miles around the proposed site is 150,000 or more, the relevant market area shall be that area within the 15 mile radius; or

c. Except as defined in subsections (a) and (b) above, the relevant market area shall be the area within a radius of 20 miles around an existing dealer.

In determining population for this definition the most recent census by the U.S. Bureau of the Census or the most recent population update either from the National Planning Data Corporation or other similar recognized source shall be accumulated for all census tracts either wholly or partially within the relevant market area.

(20) 'Manufacturer' means any person, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of motor vehicles, including any person, partnership, or corporation which acts for and is under the control of such manufacturer or assembler in connection with the distribution of said motor vehicles. Additionally, the term 'manufacturer' shall include the terms 'distributor' and 'factory branch' which have been defined above.

(21) 'Dealership facilities' means the real estate, buildings, fixtures and improvements which have been devoted to the conduct of business under the franchise by the new motor vehicle dealer.

(22) 'Franchise' means the written agreement or contract between any new motor vehicle manufacturer, and any new motor vehicle dealer which purports to fix the legal rights and liabilities of the parties to such agreement or contract, and pursuant to which the dealer purchases and resells the franchised product or leases or rents the dealership premises.

(23) 'Person' means every natural person, partnership, corporation, association, trust or estate or other legal entity."

Sec. 4. G.S. 20-294(9) is amended following the word "application" and before the "." by adding the following "; or conviction of a felony involving moral turpitude, under the laws of this State or any other state, or territory, or the District of Columbia".

Sec. 5. G.S. 20-305(1) is amended in the first line after the word "To" and before the word "coerce" by adding the words and punctuation "require,".

Sec. 6. G.S. 20-305(2) is amended in the first line after the word "To" and before the word "coerce" by adding the words and punctuation "require,".

Sec. 7. G.S. 20-305(5) is rewritten to read:

"To enter into a franchise establishing an additional new motor vehicle dealer or relocating an existing new motor vehicle dealer into a relevant market area where the same line make is then represented without first notifying in writing the Commissioner and each new motor vehicle dealer in such line make in the relevant market area of the intention to establish an additional dealer or to relocate an existing dealer within or into that market area. Within 30 days of receiving such notice or within 30 days after the end of any appeal procedure provided by the manufacturer, any such new motor vehicle dealer may file with the Commissioner a protest to the establishing or relocating of the new motor vehicle dealer. When such a protest is filed, the Commissioner shall promptly inform the manufacturer that a timely protest has been filed, and that the manufacturer shall not establish or relocate the proposed new motor vehicle dealer until the Commissioner has held a hearing, nor thereafter, if the Commissioner has determined that there is good cause for not permitting the addition or relocation of such new motor vehicle dealer.

(a) This section does not apply:

(i) To the relocation of an existing new motor vehicle dealer within that dealer's relevant market area, provided that the relocation not be at a site within 10 miles of a licensed new motor vehicle dealer for the same line make of motor vehicle; or

(ii) If the proposed additional new motor vehicle dealer is to be established at or within two miles of a location at which a former licensed new motor vehicle dealer for the same line make of new motor vehicle had ceased operating within the previous two years;

(iii) To the relocation of an existing new motor vehicle dealer within two miles of the existing site of the new motor vehicle dealership;

(iv) To the relocation of an existing new motor vehicle dealer if the proposed site of the relocated new motor vehicle dealership is further away from all other new motor vehicle dealers of the same line make in that relevant market area.

(b) In determining whether good cause has been established for not entering into or relocating an additional new motor vehicle dealer for the same line make, the Commissioner shall take into consideration the existing circumstances, including, but not limited to:

(i) The permanency of the investment of both the existing and proposed additional new motor vehicle dealers;

(ii) Growth or decline in population, density of population, and new car registrations in the relevant market area;

(iii) Effect on the consuming public in the relevant market area;

(iv) Whether it is injurious or beneficial to the public welfare for an additional new motor vehicle dealer to be established;

(v) Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient customer care for the motor vehicles of the same line make in the market area which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts, and qualified service personnel;

(vi) Whether the establishment of an additional new motor vehicle dealer or relocation of an existing new motor vehicle in the relevant market area would increase competition in a manner such as to be in the long-term public interest; and

(vii) The effect on the relocating dealer of a denial of its relocation into the relevant market area.

(c) The Commissioner must conduct the hearing and render his final determination as expeditiously as possible, but in any event no later than 180 days after a protest is filed. Unless waived by the parties, failure to do so shall be deemed the equivalent of a determination that good cause does not exist for refusing to permit the proposed additional or relocated motor vehicle dealer, unless such delay is caused by acts of the manufacturer, or the relocating or additional dealer.

(d) Any parties to a hearing by the Commissioner concerning the establishment or relocating of a new motor vehicle dealer shall have a right of review of the decision in a court of competent jurisdiction pursuant to Chapter 150A of the General Statutes."

Sec. 8. G.S. 20-305(6) is rewritten to read:

"Notwithstanding the terms, provisions or conditions of any franchise or notwithstanding the terms or provisions of any waiver, to terminate, cancel or fail to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer has: satisfied the notice requirements of subparagraph (c); and the Commissioner has determined, if requested in writing by the dealer within the time period specified in G.S. 20-305(6)(c)(i)b, c or d, as applicable, and after a hearing on the matter, that there is good cause for the termination, cancellation, or nonrenewal of the franchise and that the manufacturer has acted in good faith as defined in this act regarding the termination, cancellation or nonrenewal. When such a petition is made to the Commissioner by a dealer for determination as to the existence of good cause and good faith for the termination, cancellation or nonrenewal of a franchise, the Commissioner shall promptly inform the manufacturer that a timely petition has been filed, and the franchise in question shall continue in effect pending the Commissioner's decision. The Commissioner must conduct the hearing and render his final determination as expeditiously as possible, but in any event no later than 180 days after a petition has been filed. If the termination, cancellation or nonrenewal is pursuant to G.S. 20-305(6)(c)(i)c then the Commissioner shall give the proceeding priority consideration and shall render his final determination no later than 60 days after the petition has been filed. Any parties to a hearing by the Commissioner under this section shall have a right of review of the decision in a court of competent jurisdiction pursuant to Chapter 150A of the General Statutes.

(a) Notwithstanding the terms, provisions or conditions of any franchise or the terms or provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation or nonrenewal when:

(i) There is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of material significance to the franchise relationship provided that the dealer has been notified in writing of the failure within 180 days after the manufacturer first acquired knowledge of such failure;

(ii) If the failure by the new motor vehicle dealer, defined in (i) above, relates to the performance of the new motor vehicle dealer in sales or service, then good cause shall be defined as the failure of the new motor vehicle dealer to comply with reasonable performance criteria established by the manufacturer if the new motor vehicle dealer was apprised by the manufacturer in writing of such failure; and

a. Said notification stated that notice was provided of failure of performance pursuant to this section;

b. The new motor vehicle dealer was afforded a reasonable opportunity, for a period of not less than 180 days, to comply with such criteria; and

c. The new motor vehicle dealer failed to demonstrate substantial progress towards compliance with the manufacturer's performance criteria during such period and the new motor vehicle dealer's failure was not primarily due to economic or market factors within the dealer's relevant market area which were beyond the dealer's control.

(b) The manufacturer shall have the burden of proof under this section.

(c) Notification of Termination, Cancellation and Nonrenewal.

(i) Notwithstanding the terms, provisions or conditions of any franchise prior to the termination, cancellation or nonrenewal of any franchise, the manufacturer shall furnish notification of such termination, cancellation or nonrenewal to the new motor vehicle dealer as follows:

a. In the manner described in G.S. 20-305(6)(c)(ii) below; and

b. Not less than 90 days prior to the effective date of such termination, cancellation or nonrenewal; or

c. Not less than 15 days prior to the effective date of such termination, cancellation or nonrenewal with respect to any of the following:

1. Insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law;

2. Failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;

3. Revocation of any license which the new motor vehicle dealer is required to have to operate a dealership;

4. Conviction of a felony involving moral turpitude, under the laws of this State or any other state, or territory, or the District of Columbia.

d. Not less than 180 days prior to the effective date of such termination or cancellation where the manufacturer or distributor is discontinuing the sale of the product line.

(ii) Notification under this section shall be in writing; shall be by certified mail or personally delivered to the new motor vehicle dealer; and shall contain:

a. A statement of intention to terminate, cancel or not to renew the franchise;

b. A statement of the reasons for the termination, cancellation or nonrenewal; and

c. The date on which such termination, cancellation or nonrenewal takes effect.

(iii) Notification provided in G.S. 20-305(6)(c)(i)b. of 90 days prior to the effective date of such termination, cancellation or renewal may run concurrent with the 180 days designated in G.S. 20-305(6)(a)(ii)b. provided such notification is clearly designated by a separate written document mailed by certified mail or personally delivered to the new motor vehicle dealer.

(d) Payments.

(i) Upon the termination, nonrenewal or cancellation of any franchise by the manufacturer or distributor, pursuant to this section, the new motor vehicle dealer shall be allowed fair and reasonable compensation by the manufacturer for the:

a. New motor vehicle inventory which has been acquired from the manufacturer within 18 months, at a price not to exceed the original manufacturer's price to the dealer, and which has not been altered or damaged, and which has not been driven more than 200 miles, and for which no certificate of title has been issued;

b. Unused, undamaged and unsold supplies and parts purchased from the manufacturer, at a price not to exceed the original manufacturer's price to the dealer, provided such supplies and parts are currently offered for sale by the manufacturer or distributor in its current parts catalogs and are in salable condition;

c. Equipment and furnishings which have not been altered or damaged and which have been required by the manufacturer or distributor to be purchased by the new motor vehicle dealer from the manufacturer or distributor, or their approved sources; and

d. Special tools which have not been altered or damaged and which have been required by the manufacturer or distributor to be purchased by the new motor vehicle dealer from the manufacturer or distributor, or their approved sources within five years immediately preceding the termination, nonrenewal or cancellation of the franchise.

(ii) Such fair and reasonable compensation for the above shall be paid by the manufacturer within 90 days of the effective date of termination, cancellation or nonrenewal, provided the new motor vehicle dealer has clear title to the inventory and has conveyed title and possession to the manufacturer.

(e) Dealership Facilities Assistance Upon Termination, Cancellation or Nonrenewal.

In the event of the termination, cancellation or nonrenewal by the manufacturer or distributor under this section, except termination, cancellation or nonrenewal for insolvency, license revocation, conviction of a crime involving moral turpitude, or fraud by a dealer-owner:

(i) Subject to paragraph (iii), if the new motor vehicle dealer is leasing the dealership facilities from a lessor other than the manufacturer, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to the rent for the unexpired term of the lease or one year's rent, whichever is less, or such longer term as is provided in the franchise agreement between the dealer and manufacturer; or

(ii) Subject to paragraph (iii), if the new motor vehicle dealer owns the dealership facilities, the manufacturer shall pay the new motor vehicle

dealer a sum equivalent to the reasonable rental value of the dealership facilities for one year.

(iii) Provided nothing in this section (e) shall relieve a lessee or owner, as the case may be, from the obligation to mitigate damages under the lease, nor prevent a manufacturer from occupying and using the dealership facilities while paying rent under subsections (i) and (ii), nor prevent a manufacturer from obligations by negotiating a lease termination, a sublease or a new lease. Any amounts recovered by the lessee or owner resulting from mitigation of damages shall be deducted from the amount due from the manufacturer.

(f) The provisions of paragraphs (d) and (e) above shall not be applicable when the termination, nonrenewal or cancellation of the franchise agreement is the result of the voluntary act of the dealer."

Sec. 9. G.S. 20-305(7) is rewritten to read:

"Notwithstanding the terms of any franchise agreement, to prevent or refuse to honor the succession to a dealership by the designated family member as provided for under this subsection.

(a) Any owner of a new motor vehicle dealership may appoint by will, or any other written instrument, a designated family member to succeed in the ownership interest of the said owner in the new motor vehicle dealership.

(b) Unless there exists good cause for refusal to honor succession on the part of the manufacturer or distributor, any designated family member of a deceased or incapacitated owner of a new motor vehicle dealership may succeed to the ownership of the new motor vehicle dealership under the existing franchise provided that:

(i) The designated family member gives the manufacturer or distributor written notice of his or her intention to succeed to the ownership of the new motor vehicle dealership within 60 days of the owner's death or incapacity; provided, however, that the failure of the designated family member to give the manufacturer or distributor written notice as provided above within 60 days of the owner's death or incapacity shall not result in the waiver or termination of the designated family member's right to succeed to the ownership of the new motor vehicle dealership unless the manufacturer or distributor gives written notice of this provision to either the designated family member or the deceased or incapacitated owner's executor, administrator, guardian or other fiduciary by certified or registered mail, return receipt requested, and said written notice grants not less than 30 days time within which the designated family member may give the notice required hereunder, provided the designated family member or the deceased or incapacitated owner's executor, administrator, guardian or other fiduciary has given the manufacturer reasonable notice of death or incapacity; and

(ii) The designated family member agrees to be bound by all terms and conditions of the franchise.

(c) The manufacturer or distributor may request, and the designated family member shall provide, promptly upon said request, personal and financial data that is reasonably necessary to determine whether the succession should be honored.

(d) If a manufacturer or distributor believes that good cause exists for refusing to honor the succession to the ownership of a new motor vehicle dealership by a family member of a deceased or incapacitated owner of a new motor vehicle dealership under the existing franchise agreement, the manufacturer or distributor may, not more than 60 days following receipt of:

(i) Notice of the designated family member's intent to succeed to the ownership of the new motor vehicle dealer; or

(ii) Any personal or financial data which it has requested, serve upon the designated family member and the Commissioner notice of its refusal to honor the succession and of its intent to discontinue the existing franchise with the dealer.

(e) The notice must state the specific grounds for the refusal to honor the succession and of its intent to discontinue the existing franchise with the new motor vehicle dealer no sooner than 90 days from the date such notice is served.

(f) If notice of refusal and discontinuance is not timely served upon the family member, the franchise shall continue in effect subject to termination only as otherwise permitted by this act.

(g) Within 30 days of receiving the manufacturer's or distributor's notice of its intent to discontinue the existing franchise as provided in subsection (d) above, the designated family member may file a written protest of the manufacturer's or distributor's decision with the Commissioner. When such a protest is filed, the Commissioner shall promptly inform the manufacturer that a timely protest has been filed, and that the franchise shall continue in effect until the Commissioner has held a hearing, and thereafter, unless the Commissioner has determined that there is good cause for the manufacturer's or distributor's refusal to honor the succession. The Commissioner must conduct the hearing and render his final determination as expeditiously as possible, but in any event no later than 180 days after a protest is filed. Any parties to a hearing by the Commissioner concerning whether good cause exists for the refusal to honor the succession shall have a right of review of the decision in a court of competent jurisdiction pursuant to Chapter 150A of the General Statutes.

(h) In determining whether good cause for the refusal to honor the succession exists, the manufacturer, distributor, factory branch, or importer has the burden of proving that the successor is a person who is not of good moral character or does not meet the franchisor's existing and reasonable standards and, considering the volume of sales and service of the new motor vehicle dealer, uniformly applied minimum business experience standards in the market area.

(i) This section does not preclude the owner of a new motor vehicle dealership from designating any person as his successor by written instrument filed with the manufacturer or distributor, and, in the event there is a conflict between such written instrument and the provisions of this section, and that written instrument has not been revoked by the owner of the new motor vehicle dealership in writing to the manufacturer or distributor, then the written instrument shall govern."

Sec. 10. G.S. 20-305 is amended by adding the following new subdivisions to read:

"(8) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to order or accept delivery of any new motor vehicle with special

features, accessories or equipment not included in the list price of such motor vehicles as publicly advertised by the manufacturer or distributor.

(9) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to participate monetarily in an advertising campaign or contest, or to purchase unnecessary or unreasonable quantities of any promotional materials, training materials, training programs, showroom or other display decorations or materials at the expense of the new motor vehicle dealer, provided that nothing in this subsection shall preclude a manufacturer or distributor from including an unitemized uniform charge in the base price of the new motor vehicle charged to the dealer where such charge is attributable to advertising costs incurred or to be incurred by the manufacturer or distributor in the ordinary courses of its business.

(10) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to change the capital structure of the new motor vehicle dealer or the means by or through which the new motor vehicle dealer finances the operation of the dealership provided that the new motor vehicle dealer at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria; and also provided that no change in the capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor, provided that said consent shall not be unreasonably withheld.

(11) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to refrain from participation in the management of, investment in, or the acquisition of any other line of new motor vehicle or related products; provided, however, that this subsection does not apply unless the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicle, and the new motor vehicle dealer remains in compliance with any reasonable capital standards and facilities requirements of the manufacturer.

(12) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to change location of the dealership, or to make any substantial alterations to the dealership premises or facilities, when to do so would be unreasonable, or without written assurance of a sufficient supply of new motor vehicles so as to justify such an expansion, in light of the current market and economic conditions.

(13) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to prospectively assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability to be imposed by this law or to require any controversy between a new motor vehicle dealer and a manufacturer, distributor, or representative, to be referred to any person other than the duly constituted courts of the State or the United States of America, or to the Commissioner, if such referral would be binding upon the new motor vehicle dealer.

(14) To delay, refuse, or fail to deliver motor vehicles or motor vehicle parts or accessories in reasonable quantities relative to the new motor vehicle dealer's facilities and sales potential in the new motor vehicle dealer's relevant market area, and within a reasonable time, after receipt of an order from a dealer having a franchise for the retail sale of any new motor vehicle sold or distributed by the manufacturer or distributor, any new vehicle, parts or accessories to new vehicles as are covered by such franchise, and such vehicles,

parts or accessories as are publicly advertised as being available or actually being delivered. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a motor vehicle dealer who has not received delivery thereof, but who has placed his written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle to a motor vehicle dealer within a reasonable time, without cause. This subsection is not violated, however, if such failure is caused by acts or causes beyond the control of the manufacturer, distributor, factory branch, or factory representative.

(15) To refuse to disclose to any new motor vehicle dealer, handling the same line make, the manner and mode of distribution of that line make within the State.

(16) To award money, goods, services, or any other benefit to any new motor vehicle dealership employee, either directly or indirectly, unless such benefit is promptly accounted for, and transmitted to, or approved by, the new motor vehicle dealer.

(17) To increase prices of new motor vehicles which the new motor vehicle dealer had ordered and which the manufacturer or distributor has accepted for immediate delivery for private retail consumers prior to the new motor vehicle dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer shall constitute evidence of each such order provided that the vehicle is in fact delivered to that customer. Price differences applicable to new model or series shall not be considered a price increase or price decrease. Price changes caused by either: (1) the addition to a new motor vehicle of required or optional equipment; or (2) revaluation of the United States dollar, in the case of foreign-make vehicles or components; or (3) an increase in transportation charges due to increased rates imposed by carriers; or (4) new tariffs or duties imposed by the United States of America or any other governmental authority, shall not be subject to the provisions of this subsection.

(18) To prevent or attempt to prevent a dealer from receiving fair and reasonable compensation for the value of the franchised business transferred in accordance with G.S. 20-305(4) above.

(19) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line make to be sold to the State or any political subdivision thereof without making the same offer available upon request to all other new motor vehicle dealers in the same line make within the State.

(20) To release to any outside party, except under subpoena or as otherwise required by law or in an administrative, judicial or arbitration proceeding involving the manufacturer or new motor vehicle dealer, any confidential business, financial, or personal information which may be from time to time provided by the new motor vehicle dealer to the manufacturer, without the express written consent of the new motor vehicle dealer.

(21) To deny any new motor vehicle dealer the right of free association with any other new motor vehicle dealer for any lawful purpose.

(22) To unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursements or authority granted its new motor vehicle dealers to make warranty adjustments with retail customers.

(23) To engage in any predatory practice against or unfairly compete with a new motor vehicle dealer located in this State.

(24) To terminate any franchise solely because of the death or incapacity of an owner who is not listed in the franchise as one on whose expertise and abilities the manufacturer relied in the granting of the franchise.

(25) To require, coerce, or attempt to coerce a new motor vehicle dealer to either establish or maintain exclusive facilities, personnel, or display space when such requirements would not be justified by reasonable business considerations.

(26) To resort to or to use any false or misleading advertisement in the conducting of its business as a manufacturer or distributor in this State.

(27) To knowingly make, either directly or through any agent or employee, any material statement which is false or misleading and which induces any new motor vehicle dealer to enter into any agreement or franchise or to take any action which is materially prejudicial to that new motor vehicle dealer or his business.

(28) To require, coerce, or attempt to coerce any new motor vehicle dealer to purchase or order any new motor vehicle as a precondition to purchasing, ordering, or receiving any other new motor vehicle or vehicles. Nothing herein shall prevent a manufacturer from requiring that a new motor vehicle dealer fairly represent and inventory the full line of new motor vehicles which are covered by the franchise agreement."

Sec. 11. G.S. 20-305.1(b) is rewritten to read:

"(b) Notwithstanding the terms of any franchise agreement, it is unlawful for any motor vehicle manufacturer, factory branch, distributor, or distributor branch to fail to perform any of its warranty obligations with respect to a motor vehicle, to fail to compensate its motor vehicle dealers licensed in this State for warranty parts, or, in service in accordance with the schedule of compensation provided the dealer pursuant to subsection (a) above, and to fail to indemnify and hold harmless its franchised dealers licensed in this State against any judgment for damages or settlements agreed to by the manufacturer, including, but not limited to, court costs and reasonable attorneys' fees of the motor vehicle dealer, arising out of complaints, claims or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, express or implied warranty, or recision or revocation of acceptance of the sale of a motor vehicle as defined in G.S. 25-2-608, to the extent that the judgment or settlement relates to the alleged defective negligent manufacture, assembly or design of new motor vehicles, parts or accessories or other functions by the manufacturer, factory branch, distributor or distributor branch, beyond the control of the dealer."

Sec. 12. G.S. 20-305.1(c) is amended following the word "above" and before the "," in the third line by adding the following "and subsection (d) below".

Sec. 13. G.S. 20-305.1 is further amended by adding following subsection (c) new subsection (d), to read as follows:

"(d) Transportation damages.

(1) Notwithstanding the terms, provisions or conditions of any agreement or franchise, the manufacturer is liable for all damages to motor vehicles before delivery to a carrier or transporter.

(2) If a new motor vehicle dealer determines the method of transportation, the risk of loss passes to the dealer upon delivery of the vehicle to the carrier.

(3) In every other instance, the risk of loss remains with the manufacturer until such time as the new motor vehicle dealer or his designee accepts the vehicle from the carrier.

(4) Whenever a motor vehicle is damaged while in transit when the carrier or the means of transportation is designated by the manufacturer or distributor, or whenever a motor vehicle is otherwise damaged prior to delivery to the dealer, the dealer must:

a. Notify the manufacturer or distributor of such damage within three working days or within such additional time as authorized by the franchise agreement of the occurrence of the delivery of the motor vehicle as defined in subsection (1) of this section; and

b. Must request from the manufacturer or distributor authorization to repair the damages sustained or to replace the parts or accessories damaged.

(5) In the event the manufacturer or distributor refuses or fails to authorize repair or replacement of any such damage within ten working days after receipt of notification of damage by the dealer, ownership of the motor vehicle shall revert to the manufacturer or distributor, and the dealer shall incur no obligation, financial or othewise, for such damage to the motor vehicle.

(6) Nothing in this section (d) shall relieve the dealer of the obligation to cooperate with the manufacturer as necessary in filing any transportation damage claim with the carrier."

Sec. 14. G.S. 20-305.2 is amended by replacing the words "trade area" with the words "relevant market area" each place the phrase appears.

Sec. 15. G.S. 20-305.2 is further amended in the second paragraph by deleting the sentence "Trade area is that area specified in the franchise agreement or determined by the Motor Vehicle Dealers' Advisory Board."

Sec. 16. G.S. 20-309 is added to read:

"§ 20-309. *Civil actions for violations.*—(a) Notwithstanding the terms, provisions or conditions of any agreement or franchise or other terms or provisions of any novation, waiver or other written instrument, any person who is or may be injured by a violation of a provision of this Article, or any party to a franchise who is so injured in his business or property by a violation of a provision of this Article relating to that franchise, or any person so injured because he refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of this Article may, notwithstanding the initiation or pendency of an administrative proceeding before the Commissioner concerning the same parties or subject matter, bring an action for damages and equitable relief, including injunctive relief, in any court of competent jurisdiction with regard to any matter not within the jurisdiction of the Commissioner.

(b) Where the violation of a provision of this Article can be shown to be malicious or wanton, or if continued multiple violations of a provision or provisions of this Article occur, the court may award punitive damages, attorneys' fees and costs in addition to any other damages under this Article.

(c) A new motor vehicle dealer, if he has not suffered any loss of money or property, may obtain final equitable relief if it can be shown that the violation of a provision of this Article by a manufacturer or distributor may have the effect of causing such loss of money or property.

(d) Where there are continued violations of a provision or provisions of this Article and it can be shown that the violations are willful or wanton, the court, in addition to any other remedy or awards of damages under this Article may assess monetary penalties."

Sec. 17. G.S. 20-310 is added to read:

"§ 20-310. *Applicability of this Article.*—(a) Any person who engages directly or indirectly in purposeful contacts within this State in connection with the offering or advertising for sale, or has business dealings, with respect to a new motor vehicle sale within this State, shall be subject to the provisions of this Article and shall be subject to the jurisdiction of the courts of this State.

(b) The applicability of this Article shall not be affected by a choice of law clause in any franchise, agreement, waiver, novation, or any other written instrument.

(c) Any provision of any agreement, franchise, waiver, novation or any other written instrument which is in violation of any section of this Article shall be deemed null and void and without force and effect.

(d) It shall be unlawful for a manufacturer or distributor to use any subsidiary corporation, affiliated corporation, or any other controlled corporation, partnership, association or person to accomplish what would otherwise be illegal conduct under this Article on the part of the manufacturer or distributor."

Sec. 18. G.S. 20-305.5 is amended by deleting the statutory citation "G.S. 20-305(4), (5), (6), and (7)" and inserting in lieu thereof the statutory citation "G.S. 20-305(4) through G.S. 20-305(28)".

Sec. 19. In the event any of the provisions of this act are held to be invalid, such invalidity shall not affect the validity of any remaining sections of the act.

Sec. 20. The provisions of this act shall be applicable to all franchises and contracts existing between dealers, manufacturers, factory branches, and distributors at the time of its ratification, and to all such future franchises and contracts.

Sec. 21. G.S. 20-286(11) is amended by adding after the word "vehicles" and before the "." the following:

", and who holds or held at the time a cause of action under this Article accrued, a valid sales and service agreement, franchise or contract, granted by the manufacturer or distributor for the retail sale of said manufacturer's or distributor's new motor vehicles."

Sec. 22. As an interim provision, in addition to G.S. 20-305(5)(a)(ii) if the proposed additional new motor vehicle dealer is to be established at or within two miles of a location at which a former licensed new motor vehicle dealer for the same line make of new motor vehicles has ceased operating since June 1, 1980, the new motor vehicle dealer may be established by the manufacturer by giving notice to the Commissioner and obtaining a license for an approved new motor vehicle dealer who must commence business operation within 90 days thereafter.

Sec. 23. G.S. 20-301 is amended by adding a new subsection (d) as follows:

"(d) The Commissioner shall limit the time for discovery in any contested administrative hearing conducted pursuant to Article 12 to a time not to exceed 60 days."

Sec. 24. G.S. 20-307.1 is added following G.S. 20-307 as follows:

"§ 20-307.1. *Jurisdiction.*—A franchisee who is substantially and primarily engaged in the sale of motor vehicles or parts, materials, or components of motor vehicles, including batteries, tires, transmissions, mufflers, painting, lubrication or tune-ups may bring suit against any franchisor, engaged in commerce, in the General Court of Justice in the State of North Carolina that has proper venue."

Sec. 25. Section 22 of this act shall expire on June 1, 1984. This act shall become effective 30 days after ratification, and shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 7th day of July, 1983.

S. B. 473 CHAPTER 705

AN ACT TO MAKE SHOPPING CART THEFT UNLAWFUL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-72.3. *Removal of shopping cart from shopping premises.*—(a) As used in this section:

(1) 'shopping cart' means the type of push cart commonly provided by grocery stores, drugstores, and other retail stores for customers to transport commodities within the store and from the store to their motor vehicles outside the store.

(2) 'premises' includes the motor vehicle parking area set aside for customers of the store.

(b) It is unlawful for any person to remove a shopping cart from the premises of a store without the consent, given at the time of the removal, of the store owner, manager, agent or employee.

(c) Violation of this section is a misdemeanor punishable by a fine of not more than one hundred dollars ($100.00), imprisonment for not more than thirty days, or both."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 7th day of July, 1983.

S. B. 490 **CHAPTER 706**

AN ACT TO PERMIT DEDUCTION OF CERTAIN EMPLOYEE CONTRIBUTIONS TO QUALIFIED RETIREMENT PLANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147(20) is amended by adding after the first semicolon thereof the following: "deductible employee contributions as described in subsection 72(o)(5) of the United States Internal Revenue Code;".

Sec. 2. G.S. 105-3(5) is amended by adding as the last phrase of the third sentence thereof the following: "nor shall any deductible employee contributions within the meaning of subsection 72(o)(5) of the United States Internal Revenue Code be considered to have been contributed by the decedent."

Sec. 3. This act shall become effective January 1, 1983, and applies to contributions made and to the estates of decedents dying on or after that date.

In the General Assembly read three times and ratified, this the 8th day of July, 1983.

S. B. 157 **CHAPTER 707**

AN ACT TO AUTHORIZE HIGH SCHOOL EMPLOYEES DESIGNATED BY THE SCHOOL BOARD AND APPOINTED BY THE COUNTY BOARD OF ELECTIONS TO REGISTER VOTERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-80(a) is amended by adding a new subdivision as follows:

"(7) Public high school employees appointed under this subdivision. A local board of education may, but is not required to, designate high school employees to be appointed by the county board of elections as special high school registration commissioners. Only employees who volunteer for this duty, and who are acceptable to the county board of elections, may be designated by boards of education. A special high school registration commissioner may register voters only while on duty as a high school employee and only at times and under arrangements approved by the local school board of education. A person appointed under this subdivision shall take the oath prescribed in G.S. 163-41(b)."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 8th day of July, 1983.

S. B. 544 **CHAPTER 708**

AN ACT TO EXEMPT CERTAIN RELIGIOUS, NONPROFIT CONFERENCE CENTERS FROM THE COVERAGE OF THE WAGE AND HOUR LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-25.3(e) is amended by deleting the words "a seasonal religious assembly,".

Sec. 2. G.S. 95-25.14(b)(1) is rewritten to read:

"(1) Any employee of a boys' or girls' summer camp or of a seasonal religious or nonprofit educational conference center."

Sec. 3. G.S. 95-25.2(13) is amended by deleting the word "assembly" and substituting "or nonprofit educational conference center".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1983.

H. B. 604 **CHAPTER 709**

AN ACT TO AMEND THE STATUTES CONCERNING VARIOUS BOARDS AND COMMISSIONS IN THE DEPARTMENT OF CORRECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-26.1(1), 148-26.1(2), 148-26.1(3), 148-26.2, 148-26.3, and 148-26.4 are hereby repealed.

Sec. 2. G.S. 143B-265 is amended by rewriting the third paragraph to read:

"The Board of Correction shall consist of one voting member from each of the 11 congressional districts, appointed by the Governor to serve at his pleasure. One member shall be a psychiatrist or a psychologist, one an attorney with experience in the criminal courts, one a judge in the General Court of Justice and eight members appointed at large. The Secretary of Correction shall be an additional nonvoting member and chairman ex officio. The terms of office of the nine members presently serving on the Board shall continue, but any vacancy occurring on or after July 1, 1983, shall be filled by the Governor in compliance with the requirement of membership from the various congressional districts."

Sec. 3. G.S. 143B-267 is amended by deleting the following language from the first sentence thereof: ", and the Secretary of Correction who shall serve as an ex officio, nonvoting member".

Sec. 4. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 8th day of July, 1983.

H. B. 1127 CHAPTER 710

AN ACT TO AMEND G.S. 143B-417 TO PROVIDE THAT THE JUSTICES OF THE SUPREME COURT AND JUDGES OF THE COURT OF APPEALS BE INCLUDED AMONG THE OFFICES TO WHICH STUDENT INTERNS MAY BE ASSIGNED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-417(1) is amended by striking the semicolon at the end of the subsection and adding the following:

"u. Justices of the Supreme Court and Judges of the Court of Appeals;".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1983.

H. B. 1167 CHAPTER 711

AN ACT SETTING A TIME LIMIT FOR FILING THE FINAL AFFIDAVIT FOR ADMINISTRATION OF A SMALL ESTATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-25-3(a)(2) is amended by adding the following at the end: "This final affidavit shall be filed within 90 days of the date of filing of the qualifying affidavit provided for in G.S. 28A-25-1. If the heir or creditor cannot file the final affidavit within 90 days, he shall file a report with the clerk within that time period stating his reasons. Upon determining that the heir or creditor has good reason not to file the final affidavit within 90 days, the clerk may extend the time for filing up to one year from the date of filing the qualifying affidavit."

Sec. 2. G.S. 28A-25-4 is amended by adding a new sentence at the end to read: "In addition to or in lieu of filing this attachment, the clerk may require the heir to post a bond conditioned as provided in G.S. 28A-8-2."

Sec. 3. This act shall become effective October 1, 1983, and applies to estates of persons dying on and after that date.

In the General Assembly read three times and ratified, this the 8th day of July, 1983.

H. B. 1367 CHAPTER 712

AN ACT TO CORRECT A TECHNICAL CONFLICT BETWEEN CHAPTER 567 AND CHAPTER 561 OF THE SESSION LAWS OF 1983.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 567 of the Session Laws of 1983 is amended by deleting the statutory reference "G.S. 15A-1343(b)(5)" and substituting the reference "G.S. 15A-1343(b)(4)" and by deleting the "(5)" and inserting in its place "(4)".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1983.

H. B. 278 CHAPTER 713

AN ACT TO ENACT THE TAX ADJUSTMENT ACT OF 1983.

The General Assembly of North Carolina enacts:

Part I. Court Costs and Fees.

Section 1. Article 28 of General Statutes Chapter 7A is amended by adding a new section G.S. 7A-320 as follows:

"§ 7A-320. *Costs are exclusive.*—The costs set forth in this Article are complete and exclusive, and in lieu of any other costs and fees."

Sec. 2. G.S. 7A-304(a)(4) is amended by substituting the words and figures "twenty-three dollars ($23.00)" for the words and figures "nineteen dollars ($19.00)" and is further amended by substituting the words and figures "thirty dollars ($30.00)" for the words and figures "twenty-eight dollars ($28.00)".

Sec. 3. G.S. 7A-304(c) is amended by rewriting the first sentence as follows: "Witness fees, expenses for blood tests and comparisons incurred by G.S. 8-50.1(a), jail fees and cost of necessary trial transcripts shall be assessed as provided by law in addition to other costs set out in this section."

Sec. 4. G.S. 7A-305(a)(2) is amended by rewriting the first sentence as follows: "For support of the General Court of Justice, the sum of thirty-seven dollars ($37.00) in the superior court, and the sum of twenty-two dollars ($22.00) in the district court except that if the case is assigned to a magistrate the sum shall be ten dollars ($10.00)."

Sec. 5. G.S. 7A-305 is amended by adding a new subsection (b1) as follows:

"(b1) When a defendant files an answer in an action filed as a small claim which requires the entire case to be withdrawn from a magistrate and transferred to the district court, the difference between the General Court of Justice fee and facilities fee applicable to the district court and the General Court of Justice fee and facilities fee applicable to cases heard by a magistrate shall be assessed. The defendant is responsible for paying the fee."

Sec. 6. G.S. 7A-305(d) is amended by deleting the words "The uniform costs set forth in this section are complete and exclusive, and in lieu of any and all other costs, fees, and commissions, except that the" and inserting in their place the word "The".

Sec. 7. G.S. 7A-306(a)(2) is amended by deleting the words and figures "thirteen dollars ($13.00)" and inserting in their place the words and figures "twenty-two dollars ($22.00)", and by rewriting the second sentence as follows: "In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars ($100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars ($100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars ($200.00)."

Sec. 8. G.S. 7A-306(b) is amended by substituting the words and figures "twenty-two dollars ($22.00)" for the words and figures "thirteen dollars ($13.00)".

Sec. 9. G.S. 7A-306(c) is amended by deleting the words "The uniform costs set forth in this section are complete and exclusive, and in lieu of any and all other costs, fees, and commissions, except that the" and inserting in their place the word "The".

Sec. 10. G.S. 7A-307(a) as it appears in the 1981 Replacement Volume 1B of the General Statutes is amended by adding on line 2 between the comma and the word "the" "and in collections of personal property by affidavit,".

Sec. 11. G.S. 7A-307(a)(2) is amended by rewriting the first sentence as follows: "For support of the General Court of Justice, the sum of twenty-two dollars ($22.00), plus an additional forty cents (40¢) per one hundred dollars ($100.00), or major fraction thereof, of the gross estate."

Sec. 12. G.S. 7A-307(a)(2) is amended by deleting the sixth sentence.

Sec. 13. G.S. 7A-307(a)(2) is amended by substituting the words and figures "five dollars ($5.00)" for the words and figures "one dollar ($1.00)".

Sec. 14. G.S. 7A-307(a) is amended by adding a new subdivision (3) as follows: "(3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of twelve dollars ($12.00)."

Sec. 15. G.S. 7A-307(b) is amended by substituting the words and figures "twenty-two dollars ($22.00)" for the words and figures "eight dollars ($8.00)" and by substituting the words and figures "twenty-five dollars ($25.00)" for the words and figures "ten dollars ($10.00)".

Sec. 16. G.S. 7A-307(c) is amended by deleting the words "The uniform costs set forth in this section are complete and exclusive, and in lieu of any and all other costs, fees, and commissions, except that the" and inserting in their place the word "The".

Sec. 17. G.S. 7A-307 is amended by adding a new subsection (b1) as follows:

"(b1) The clerk shall assess the following miscellaneous fees:

(1)	Filing a will with no probate	
	- first page	$ 1.00
	- each additional page or fraction thereof	.25
(2)	Issuing letters testamentary, per letter over five letters issued	1.00
(3)	Inventory of safe deposits of a decedent, per box, per day	15.00
(4)	Taking a deposition	5.00"

Sec. 18. G.S. 7A-308 is rewritten as follows:

"§ 7A-308. *Miscellaneous fees and commissions.*—(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

(1)	Foreclosure under power of sale in deed of trust or mortgage Plus an additional sum of thirty cents (30¢) per one hundred dollars ($100.00), or major fraction thereof, of the final sale price shall be collected. In no case shall the additional sum exceed two hundred dollars ($200.00).	$ 25.00
(2)	Proceeding supplemental to execution	20.00
(3)	Confession of judgment	15.00
(4)	Taking a deposition	5.00

(5)	Execution	15.00
(6)	Notice of resumption of maiden name	5.00
(7)	Taking an acknowledgment or administering an oath, or both, with or without seal, each certificate (except that oaths of office shall be administered to public officials without charge)	1.00
(8)	Bond, taking justification or approving	5.00
(9)	Certificate, under seal	2.00
(10)	Exemplification of records	5.00
(11)	Recording or docketing (including indexing) any document, per page or fraction thereof	4.00
(12)	Preparation of copies - first page	1.00
	- each additional page or fraction thereof	.25
(13)	Preparation of transcript of judgment	5.00
(14)	Substitution of trustee in deed of trust	5.00
(15)	Execution of passport application—the amount allowed by Federal Law	
(16)	On all funds placed with the clerk by virtue or color of his office, to be administered, invested, or administered in part and invested in part, a commission of five percent (5%), with a minimum fee of fifteen dollars ($15.00) and a maximum fee of one thousand dollars ($1,000). For purposes of assessing a commission, receipts are cumulative for the life of an account	
(17)	Criminal record search except if search is requested by an agency of the State or any of its political subdivisions or by an agency of the United States or by a petitioner in a proceeding under Article 2 of General Statutes Chapter 20	5.00
(18)	Filing the affirmations, acknowledgements, agreements and resulting orders entered into under the provisions of G.S. 110-132 and G.S. 110-133.	4.00

(b) The fees and commissions set forth in this section are not chargeable when the service is performed as a part of the regular disposition of any action or special proceeding or the administration of an estate. When a transaction involves more than one of the services set forth in this section, only the greater service fee shall be charged."

Sec. 19. G.S. 7A-309 is rewritten as follows:

"§ 7A-309. *Magistrate's special fees.*—The following special fees shall be collected by the magistrate and remitted to the clerk of superior court for the use of the State in support of the General Court of Justice:

(1)	Performing marriage ceremony	$10.00

(2)	Hearing petition for year's allowance to surviving spouse or child, issuing notices to commissioners, allotting the same, and making return	4.00
(3)	Taking a deposition	5.00
(4)	Proof of execution or acknowledgment of any instrument	1.00
(5)	Performing any other statutory function not incident to a civil or criminal action	1.00."

Sec. 20. G.S. 7A-314 is amended by adding a new subsection (f) to read as follows:

"(f) In a criminal case when a person who does not speak or understand the English language is an indigent defendant, a witness for an indigent defendant, or a witness for the State and the court appoints a language interpreter to assist that defendant or witness in the case, the reasonable fee for the interpreter's services, as set by the court, are payable from funds appropriated to the Administrative Office of the Courts."

Sec. 21. G.S. 28A-25-1(b) is amended by deleting the statutory reference "G.S. 7A-308(a)(11)" and by inserting in its place "G.S. 7A-307".

Part II. Secretary of State Fees and Taxes.

Sec. 22. G.S. 10-1 is amended by deleting the phrase "ten dollars ($10.00)" and substituting the phrase "fifteen dollars ($15.00)".

Sec. 23. G.S. 25-9-403(5) is amended by rewriting the first sentence to read:

"The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement is five dollars ($5.00) for an approved statutory form statement as prescribed in G.S. 25-9-402 when printed on a standard-size form approved by the Secretary of State, and for all other statements, the fee is ten dollars ($10.00)."

Sec. 24. G.S. 25-9-405(1) is amended by rewriting the last sentence to read:

"The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment is five dollars ($5.00) when submitted on a standard-size form approved by the Secretary of State, and for all other statements, the fee is ten dollars ($10.00)."

Sec. 25. G.S. 25-9-405(2) is amended by rewriting the fifth sentence to read:

"The uniform fee for filing, indexing, and furnishing filing data about such a separate statement of assignment is five dollars ($5.00) when submitted on a standard-size form approved by the Secretary of State, and for all other statements, the fee is ten dollars ($10.00)."

Sec. 26. G.S. 25-9-406 is amended by rewriting the fifth sentence to read:

"The uniform fee for filing and noting such a statement of release is five dollars ($5.00) when submitted on a standard-size form approved by the Secretary of State, and for all other statements, the fee is ten dollars ($10.00)."

Sec. 27. G.S. 25-9-407(2) is amended by deleting the phrase "three dollars ($3.00)" and substituting the phrase "five dollars ($5.00)".

Sec. 28. G.S. 25-9-407(2) is further amended by adding a new sentence between the second and third sentences to read:

"Where the Uniform Commercial Code index has been automated, the filing officer shall issue a computer printout of the index entries for a particular debtor for a fee of five dollars ($5.00)."

Sec. 29. G.S. 44-68.4(a)(1) and (2) are amended by deleting the phrase "two dollars ($2.00)" in each subdivision and substituting the phrase "five dollars ($5.00)".

Sec. 30. G.S. 44-68.4(a)(3) is amended by deleting the phrase "one dollar ($1.00)" and substituting the phrase "five dollars ($5.00)".

Sec. 31. G.S. 44-68.4(b) is rewritten to read:

"The fee for furnishing the certificate provided for in G.S. 44-68.3(d) in the office of the Secretary of State is five dollars ($5.00). Where the federal tax lien index has been automated, the filing officer shall issue a computer printout of the index entries for a particular debtor for a fee of five dollars ($5.00). The fee for furnishing copies provided for in G.S. 44-68.3(d) is one dollar ($1.00) per page."

Sec. 32. G.S. 55-155(a)(1), (2), (3), (4), (5), (9), (10), (11), (12), (13), (14), (16), (17), (21), and (29) are each amended by deleting the phrase "$5.00" and substituting the phrase "$10.00".

Sec. 33. G.S. 55-155(a)(6) and (18) are each amended by deleting the phrase "$3.00" and substituting the phrase "$5.00".

Sec. 34. G.S. 55-155(a)(25) and (26) are each amended by deleting the phrase "$2.00" and substituting the phrase "$5.00".

Sec. 35. G.S. 55-155(a)(7) and (8) are each amended by deleting the phrase "$1.00" and substituting the phrase "$5.00".

Sec. 36. G.S. 55-156(a)(1), (2), (5), and (6) are each amended as follows:

(1) in each place where the phrase "$.40" appears, that phrase is deleted and the phrase "$.80" is substituted;

(2) in each place where the phrase "$40.00" appears, that phrase is deleted and the phrase "$80.00" is substituted; and

(3) in each place where the phrase "$500.00" appears, that phrase is deleted and the phrase "$1,000" is substituted.

Sec. 37. G.S. 55-155(a)(19) is repealed.

Sec. 38. G.S. 55-156(a)(3) and (4) are rewritten to read:

"(3)	Articles of amendment which do not include an authorization to increase capital stock	$15.00
(4)	Articles of dissolution	20.00".

Sec. 39. G.S. 55A-77(a)(1), (2), (3), (4), (5), (6), (7), (11), (13), (16), and (17) are each amended by deleting the phrase "$5.00" and substituting the phrase "$10.00".

Sec. 40. G.S. 55A-77(a)(8) and (10) are each amended by deleting the phrase "$3.00" and substituting the phrase "$5.00".

Sec. 41. G.S. 55A-77(a)(9) is amended by deleting the phrase "$1.00" and substituting "$5.00".

Sec. 42. G.S. 55A-77(a)(12) is repealed.

Sec. 43. G.S. 55A-78(a) is amended by deleting the phrase "fifteen dollars ($15.00)" and substituting the phrase "thirty dollars ($30.00)".

Sec. 44. G.S. 55A-78(b) is amended by deleting the phrase "forty dollars ($40.00)" and substituting the phrase "sixty-five dollars ($65.00)".

Sec. 45. G.S. 78A-28(b) is rewritten to read:

"(b) Every person filing a registration statement shall pay a filing fee of one hundred dollars ($100.00), plus a registration fee of one-tenth of one percent (1/10 of 1%) of the maximum aggregate offering price at which the registered securities are to be offered in this State, but the registration fee may not be less than twenty-five dollars ($25.00) nor more than one thousand five hundred dollars ($1,500). When a registration statement is withdrawn before the effective date or a pre-effective stop order is entered under G.S. 78A-29, the Administrator shall retain the filing fee. A registration statement relating to securities issued or to be issued by a mutual fund, open-end management company, or unit investment trust or relating to other redeemable securities, to be offered for a period in excess of one year, must be renewed annually by payment of a renewal fee of one hundred dollars ($100.00) and by filing any documents or reports that the Administrator may by rule or order require."

Sec. 46. G.S. 78A-28(h) is amended by deleting from the first sentence the word "Every" and substituting the following:

"Except during the time a stop order is in effect under G.S. 78A-29, a registration statement relating to securities issued or to be issued by a mutual fund, open-end management company, or unit investment trust or relating to other redeemable securities, to be offered for a period in excess of one year, expires on December 31 of each year or some other date not more than one year from its effective date as the Administrator may by rule or order provide. Every other".

Sec. 47. G.S. 78A-28(j) is amended by rewriting the last sentence to read: "Every person filing such an amendment shall pay a registration fee calculated in the manner specified in subsection (b) and a filing fee of fifty dollars ($50.00) with respect to the additional securities proposed to be offered."

Sec. 48. The first sentence of G.S. 78A-37(b) is rewritten to read: "Every applicant for initial or renewal registration shall pay a filing fee of one hundred fifty dollars ($150.00) in the case of a dealer and twenty-five dollars ($25.00) in the case of a salesman."

Sec. 49. The last sentence of G.S. 80-3 is amended by deleting the phrase "ten dollars ($10.00)" and substituting the phrase "twenty-five dollars ($25.00)".

Sec. 50. G.S. 120-47.3 is amended by deleting in each place it appears the phrase "fifty dollars ($50.00)" and substituting the phrase "seventy-five dollars ($75.00)".

Sec. 51. G.S. 120-47.2(a) is amended by adding the following new language at the end:

"If a corporation or partnership is employed or retained as a legislative counsel, and more than one partner, employee or officer of the corporation or partnership, shall act as a legislative agent on behalf of the client, then the additional individuals shall be separately listed on the registration under subsection (b), and a fee in the same amount as imposed by G.S. 120-47.3 shall be due for each such individual in excess of one."

Part III. Inspection Fee Increases.

Sec. 52. G.S. 95-105 is rewritten to read:

"§ 95-105. *Elevator, escalator, dumbwaiter, and special equipment inspection fees.*—The Department of Labor shall assess and collect the following

inspection service fees for the installation and alteration of elevators, escalators, dumbwaiters that are not installed or altered in restaurants, and special equipment based on the cost of installation or alteration:

Cost of Installation or Alteration			Unit Fee
$0	-	$ 10,000	$ 80
10,001	-	30,000	120
30,001	-	50,000	170
50,001	-	80,000	215
80,001	-	100,000	235
Over 100,000			285.

An additional fee of seventy-five dollars ($75.00) shall be assessed for each follow-up inspection of a new installation required subsequent to the original inspection.

The Department of Labor shall assess and collect a fee of ten dollars ($10.00) for the periodic inspection of special equipment and shall assess and collect the following fees for the periodic inspection of elevators, escalators, and dumbwaiters:

Number of Building Floors	
1- 5 Floors	$13
6-10 Floors	20
11-15 Floors	35
16- Floors and over	45."

Sec. 53. G.S. 95-106 is rewritten to read:

"§ 95-106. *Amusement, aerial tramway, and inclined railroad inspection fees.*—The Department of Labor shall assess and collect the following inspection service fees for annual inspections for each location within the State of amusement devices, aerial passanger tramways, and inclined railroads:

Type Inspection	Unit Fee
Amusement Devices	$ 12
Gondolas, Chairlifts, and Inclined Railroads	137
J- or T-Bars	62
Rope Tows	31."

Part IV. Road Tax Registration Changes; Private Passenger Vehicle Registration Fee Increase.

Sec. 54. Part 7 of Article 3 of Chapter 20 of the General Statutes is amended by adding a new section immediately following G.S. 20-88 to read:

"§ 20-88A. *Registration of certain vehicles for road tax.*—Owners of passenger vehicles with seating capacity for more than twenty passengers, road tractors, tractor trucks, or trucks with more than two axles shall, in addition to all other registration fees imposed by this Article, pay a registration fee of ten dollars ($10.00) to register for purposes of the road tax imposed by Article 36B of Chapter 105. This fee shall be paid to the Commissioner at the same time as the fees imposed by G.S. 20-87 or G.S. 20-88 are paid. All vehicles licensed for more than thirty-two thousand pounds are presumed to have more than two axles. When registering a vehicle under this section, the owner of a vehicle that is leased to another shall report the name of the lessee to the Commissioner.

The Commissioner shall report all vehicles registered under this section to the Secretary of Revenue. No registration plate or registration renewal sticker shall be issued for a motor vehicle required to be registered under this section if

the owner or lessee of that vehicle is not in compliance with Articles 36A or 36B of Chapter 105. The registration plate or registration renewal sticker issued for a motor vehicle under G.S. 20-87 or 20-88 signifies registration in accordance with this section. The Commissioner may revoke the registration plate for a motor vehicle registered under this section whenever the owner or lessee of the vehicle fails to comply with Articles 36A or 36B of Chapter 105.

This section does not apply to vehicles owned by the United States, the State or its political subdivisions, special mobile equipment as defined in G.S. 20-4.01(44), and vehicles owned by nonprofit religious, educational, charitable, or benevolent organizations."

Sec. 55. G.S. 105-449.37 is rewritten to read:

"§ 105-449.37. *Definitions tax liability.*—(a) As used in this Article unless the context clearly requires otherwise:

(1) 'motor carrier' means every person, firm, or corporation who operates or causes to be operated on any highway in this State a passenger vehicle with seating capacity for more than 20 passengers, a road tractor, a tractor truck, or a truck with more than two axles. The term does not include the United States, the State or its political subdivisions, operators of special mobile equipment as defined in G.S. 20-4.01(44), or nonprofit religious, educational, charitable or benevolent organizations;

(2) 'operations' means operations of all vehicles described in subdivision (1), whether loaded or empty and whether or not operated for compensation; and

(3) 'Secretary' means the Secretary of Revenue.

(b) A motor carrier who operates on one or more days of a quarter is liable for the tax imposed by this Article for that quarter and is entitled to the credits allowed for that quarter."

Sec. 56. G.S. 105-449.47 is rewritten to read:

"§ 105-449.47. *Registration of vehicles.*—A motor carrier may not operate or cause to be operated in this State any vehicle listed in the definition of motor carrier unless the motor carrier has registered the vehicle for purposes of the tax imposed by this Article with the Commissioner of Motor Vehicles or the Secretary, as appropriate. All vehicles required to be registered under this section that are registered in this State under G.S. 20-87 or G.S. 20-88 shall be registered with the Commissioner of Motor Vehicles pursuant to G.S. 20-88A for the purposes of the tax imposed by this Article. All other vehicles required to be registered under this section shall be registered with the Secretary.

Upon application and payment of a fee of ten dollars ($10.00), the Secretary shall issue a registration card and identification marker for a vehicle. The registration card shall be carried in the vehicle for which it was issued when the vehicle is in this State. The identification marker shall be clearly displayed at all times and shall be affixed to the vehicle for which it was issued in the place and manner designated by the Secretary. Every identification marker issued shall bear a number that corresponds to the number on the registration card issued for the same vehicle. Registration cards and identification markers required by this section shall be issued on a calendar year basis. The Secretary may renew registration cards and identification markers without issuing new cards and markers. All identification markers issued by the Secretary remain the property of the State."

Sec. 57. G.S. 105-449.48 is rewritten to read:

"§ 105-449.48. *Fees paid to Highway Fund.*—All fees collected under this Article shall be paid to the Highway Fund."

Sec. 58. The first sentence of G.S. 105-449.49 is amended by deleting the phrase "a registration card and identification marker" and inserting in lieu thereof the phrase "registering the vehicle in accordance with G.S. 105-449.47".

Sec. 59. The first sentence of G.S. 105-449.51 is rewritten to read:

"Any person who operates or causes to be operated on a highway in this State a motor vehicle that does not carry a registration card as required by this Article, does not properly display an identification marker as required by this Article, or is not registered in accordance with this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined no less than ten dollars ($10.00) nor more than two hundred dollars ($200.00)."

Sec. 60. The first sentence of the second paragraph of G.S. 105-449.52 is amended by deleting the phrase "a proper registration card and identification marker being applied for" and inserting in lieu thereof the phrase "registering or making an application for registration in accordance with this Article".

Sec. 61. G.S. 20-87(5) is amended by deleting the figure "$13.00" and inserting in lieu thereof the figure "$17.00", and by deleting the figure "16.00" and inserting in lieu thereof the figure "20.00".

Part V. Income Taxes.

Sec. 62. Article 1 of Chapter 105 is amended by adding a new section immediately after G.S. 105-2 to read:

"§ 105-2.1. *Internal Revenue Code definition.*—As used in this Article, the term 'Code' means the Internal Revenue Code as enacted as of April 1, 1983, and includes any provisions enacted as of that date which become effective after that date."

Sec. 63. G.S. 105-3(5) is amended as follows:

(1) by deleting the phrase "section 401(a) of the United States Internal Revenue Code" and inserting in lieu thereof the phrase "26 U.S.C. § 401(a)";

(2) by deleting the phrase "section 403(a) or 403(b) of such Code" and inserting in lieu thereof the phrase "26 U.S.C. § 403(a) or § 403(b)";

(3) by deleting the phrase "section 401(c)(1) of the United States Internal Revenue Code" and inserting in lieu thereof the phrase "26 U.S.C. § 401(c)(1)"; and

(4) by deleting the phrase "section 404 of such Code" and inserting in lieu thereof the phrase "26 U.S.C. § 404".

Sec. 64. G.S. 105-3(6) is amended as follows:

(1) by deleting the phrase "section 219 or 220 of the Internal Revenue Code of 1954 as amended" and inserting in lieu thereof the phrase "26 U.S.C. § 219 or § 220";

(2) by deleting the phrase "section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C) of such Code" and inserting in lieu thereof the phrase "26 U.S.C. §§ 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C)"; and

(3) by deleting the phrase "section 219 or 220 of such Code" and inserting in lieu thereof the phrase "26 U.S.C. § 219 or § 220".

Sec. 65. The last sentence of G.S. 105-9.1 is rewritten to read:

"If the personal representative makes this election, the provisions of the Code pertaining to an optional valuation date apply."

Sec. 66. G.S. 105-114 is amended by inserting a new paragraph between the first and second paragraphs of that section to read:

"As used in this Article, the term 'Code' means the Internal Revenue Code as enacted as of April 1, 1983, and includes any provisions enacted as of that date which become effective after that date."

Sec. 67. The third paragraph of G.S. 105-125 and the third paragraph of G.S. 105-212 are each amended by deleting the phrase "the provisions of United States Code Annotated Title 26, section 851," and inserting in lieu thereof the phrase "section 851 of the Code"; and are further amended by deleting the phrase "United States Code Annotated Title 26, section 856," and inserting in lieu thereof the phrase "section 856 of the Code".

Sec. 68. G.S. 105-130.2 is amended by inserting a new subdivision (1) to read as follows and by renumbering the current subdivisions accordingly:

"(1) 'Code' means the Internal Revenue Code as enacted as of April 1, 1983, and includes any provisions enacted as of that date which become effective after that date."

Sec. 69. The first paragraph of G.S. 105-130.3 is amended by deleting the phrase "Internal Revenue Code in effect on January 1, 1981," and inserting in lieu thereof the word "Code".

Sec. 70. G.S. 105-130.5(a)(8), 105-130.5(b)(6), and 105-130.5(b)(12) are each amended by deleting the phrase "for federal income tax purposes" and inserting in lieu thereof the phrase "under the Code".

Sec. 71. G.S. 105-130.5(b)(11) is rewritten to read:

"(11) The amount by which a deduction for an ordinary and necessary business expense was required to be reduced under the Code for federal tax purposes or the amount of such a deduction that was not allowed under the Code because the corporation claimed a federal tax credit against its federal income tax liability for the income year in lieu of a deduction."

Sec. 72. G.S. 105-130.5(b)(14) is amended by inserting between the words "reduced" and "for" the phrase "under the Code"; and is further amended by deleting the words "federal law" and inserting in lieu thereof the words "the Code".

Sec. 73. G.S. 105-130.5(d) is amended by deleting the phrase "for federal income tax purposes under the provisions of section 337 of the Federal Internal Revenue Code of 1954, including amendments, if any" and inserting in lieu thereof the phrase "under section 337 of the Code".

Sec. 74. G.S. 105-130.12 is amended by deleting the phrase "the provisions of United States Code Annotated Title 26, § 851," and inserting in lieu thereof the phrase "section 851 of the Code"; and is further amended by deleting the phrase "the provisions of United States Code Annotated Title 26, § 856," and inserting in lieu thereof the phrase "section 856 of the Code".

Sec. 75. G.S. 105-135(15) is rewritten to read:

"(15) The word 'Code' means the Internal Revenue Code as enacted as of April 1, 1983, and includes any provisions enacted as of that date which become effective after that date."

Sec. 76. G.S. 105-141(b)(21) is amended by deleting the phrase "Internal Revenue Code of 1954 as amended" and inserting in lieu thereof the phrase "1976 Tax Reform Act".

Sec. 77. The third paragraph of G.S. 105-147(16) is amended by deleting the phrase "for purposes of the Internal Revenue Code of 1954, as amended, or

regulations promulgated pursuant thereto" and inserting in lieu thereof the phrase "under the Code".

Sec. 78. G.S. 105-147(20) is amended as follows:

(1) by inserting between the word "Service" and the semicolon following that word, the phrase ", to the extent allowed under the Code"; and

(2) by changing the last semicolon in that subdivision to a period and deleting the remainder of the subdivision.

Sec. 79. G.S. 105-163.1(11) is rewritten to read:

"(11) 'Code' means the Internal Revenue Code as enacted as of April 1, 1983, and includes any provisions enacted as of that date which become effective after that date."

Sec. 80. G.S. 105-212 is amended by adding a new paragraph at the end of that section to read:

"As used in this section, the term 'Code' means the Internal Revenue Code as enacted as of April 1, 1983, and includes any provisions enacted as of that date which become effective after that date."

Sec. 81. The third paragraph of G.S. 105-228.5 is amended by deleting the phrase "United States Internal Revenue Code as now or hereafter amended" and inserting in lieu thereof the phrase "Code as defined in G.S. 105-135(15)".

Sec. 82. The statutes listed below are amended by deleting the following phrases:

(1) "Internal Revenue Code";
(2) "United States Internal Revenue Code";
(3) "Federal Internal Revenue Code of 1954";
(4) "federal Internal Revenue Code";
(5) "1954 Internal Revenue Code";
(6) "Internal Revenue Code of 1954 as amended";
(7) "Internal Revenue Code of 1954, as amended";
(8) "Internal Revenue Code of 1954, as amended,";
(9) "Internal Revenue Code of 1954, or subsequent acts and amendments"; or
(10) "Internal Revenue Code of 1954, or subsequent acts and amendments,"

each time they appear in the listed statutes and inserting in lieu thereof the word "Code":

G.S. 105-3(6)
G.S. 105-7
G.S. 105-7.1
G.S. 105-130.2(3)
G.S. 105-130.5(a)(3)
G.S. 105-130.5(a)(5)
G.S. 105-130.5(a)(6)
G.S. 105-130.5(a)(7)
G.S. 105-130.5(b)(7)
G.S. 105-130.5(b)(8)
G.S. 105-130.5(b)(9)
G.S. 105-130.5(b)(13)d.2.
G.S. 105-130.5(b)(13)d.5.
G.S. 105-130.5(e)

G.S. 105-130.9(1)
G.S. 105-130.13
G.S. 105-130.15(b)(1)
G.S. 105-135(5)
G.S. 105-141(a)(20)
G.S. 105-141(b)(9)a.
G.S. 105-141(b)(10)
G.S. 105-141(b)(11)
G.S. 105-141(b)(17)
G.S. 105-141(b)(19)
G.S. 105-141(b)(22)
G.S. 105-141(b)(23)
G.S. 105-141(b)(26)d.
G.S. 105-141(b)(27)
G.S. 105-141.2
G.S. 105-142(b)(1)
G.S. 105-142(d)
G.S. 105-142(e)
G.S. 105-142(f)(6)
G.S. 105-144(b)
G.S. 105-144(c)(3)
G.S. 105-144.1(g)
G.S. 105-144.2(d)(2)b.
G.S. 105-144.2(i)
G.S. 105-145(e)
G.S. 105-147(1)c.
G.S. 105-147(1)e.
G.S. 105-147(7)
G.S. 105-147(8)
G.S. 105-147(12)
G.S. 105-147(13)c.
G.S. 105-147(20)
G.S. 105-161(d)(4)a.
G.S. 105-161(f)(1)c.
G.S. 105-163(c)
G.S. 105-163.1(6)e.1.
G.S. 105-163.1(6)e.2.
G.S. 105-212

Sec. 83. G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(11) The amount by which the percentage depletion allowance allowed by Sections 613 and 613A of the Code for mines, oil and gas wells, and other natural deposits exceeds the cost depletion allowance for these items under the Code, except as otherwise provided herein. This subdivision does not apply to depletion deductions for clay, gravel, phosphate rock, lime, shells, stone, sand, feldspar, gemstones, mica, talc, lithium compounds, tungsten, coal, peat, olivine, pyrophyllite, and other solid minerals or rare earths extracted from the soil or waters of this State. Corporations required to apportion income to North Carolina shall first add to federal taxable income the amount of all percentage depletion in excess of cost depletion that was subtracted from the corporation's

gross income in computing its federal income taxes and shall then subtract from the taxable income apportioned to North Carolina the amount by which the percentage depletion allowance allowed by Sections 613 and 613A of the Code for solid minerals or rare earths extracted from the soil or waters of this State exceeds the cost depletion allowance for these items."

Sec. 84. G.S. 105-147(12) is rewritten to read:

"(12) Except as provided in this subdivision, an allowance for depreciation and obsolescence of property and an allowance for depletion of mines, oil and gas wells, other natural deposits, and timber to the extent allowed under the Code. When the basis of property differs for State and federal purposes, this difference shall be taken into consideration in determining the depreciation, obsolescence, or depletion allowed under this subdivision.

A taxpayer may deduct as depletion only the amount allowed as a cost depletion allowance for mines, oil and gas wells, and other natural deposits under the Code instead of the amount allowed as a percentage depletion allowance for these items under the Code. This paragraph does not apply to depletion deductions for clay, gravel, phosphate rock, lime, shells, stone, sand, feldspar, gemstones, mica, talc, lithium compounds, tungsten, coal, peat, olivine, pyrophyllite, and other solid minerals or rare earths extracted from the soil or waters of this State."

Sec. 85. G.S. 105-141(b)(28) is repealed.

Sec. 86. Article 4B of Chapter 105 is rewritten to read:

"Article 4B.

"Filing of Declarations of Estimated Income Tax and Installment Payments of Estimated Income Tax by Corporations.

"§ 105-163.25. *Definitions.*—As used in this Article, unless the context requires otherwise:

(1) 'Corporation' means a corporation that has a reasonably estimated tax liability of at least five thousand dollars ($5,000). The term 'corporation' includes joint-stock companies or associations that meet these requirements.

(2) 'Estimated tax' means the amount of income tax the corporation estimates as the amount imposed by Article 4 for the taxable year. The appropriate percentage of estimated tax payable during the taxable year shall be determined by the following table:

For Taxable Years Beginning On and After:	Percentages
June 25, 1983, and before June 25, 1984	25%
June 25, 1984, and before June 25, 1985	50%
June 25, 1985, and before June 25, 1986	75%
June 25, 1986	100%

(3) 'Fiscal year' means an accounting period of 12 months ending on the last day of any month other than December.

(4) 'Secretary' means the Secretary of Revenue.

(5) 'Taxable year' means the calendar year or fiscal year used as a basis to determine net income under Article 4. If no fiscal year has been established, 'fiscal year' means the calendar year. In the case of a return made for a fractional part of the year under Article 4, or under rules prescribed by the Secretary, 'taxable year' means the period for which the return is made.

"§ 105-163.26. *Declarations of estimated income tax required.*—(a) Declaration Required. Every corporation subject to taxation under Article 4 shall submit a declaration of estimated tax to the Secretary. This declaration is

due at the time established in G.S. 105-163.27, and payment of the estimated tax is due at the time and in the manner prescribed in that section.

(b) Content. In the declaration of estimated tax, the corporation shall state its estimated total net income from all sources for the taxable year, the proportion of its total net income allocable to this State, its estimated tax, and any other information required by the Secretary.

(c) Amendments to Declaration. Under rules prescribed by the Secretary, a corporation may amend a declaration of estimated tax.

"§ 105-163.27. *Time for submitting declaration; time and method for paying estimated tax.*—(a) Due Dates of Declarations. Declarations of estimated tax are due at the same time as the corporation's first installment payment. Installment payments are due as follows:

(1) If, before the 1st day of the 4th month of the taxable year, the corporation's estimated tax equals or exceeds five thousand dollars ($5,000), the corporation shall pay the estimated tax in four equal installments on or before the 15th day of the 4th, 6th, 9th and 12th months of the taxable year.

(2) If, after the last day of the 3rd month and before the 1st day of the 6th month of the taxable year, the corporation's estimated tax equals or exceeds five thousand dollars ($5,000), the corporation shall pay the estimated tax in three equal installments on or before the 15th day of the 6th, 9th and 12th months of the taxable year.

(3) If, after the last day of the 5th month and before the 1st day of the 9th month of the taxable year, the corporation's estimated tax equals or exceeds five thousand dollars ($5,000), the corporation shall pay the estimated tax in two equal installments on or before the 15th day of the 9th and 12th months.

(4) If, after the last day of the 8th month and before the 1st day of the 12th month of the taxable year, the corporation's estimated tax equals or exceeds five thousand dollars ($5,000), the corporation shall pay the estimated tax on or before the 15th day of the 12th month of the taxable year.

(b) Payment of Estimated Tax When Declaration Amended. When a corporation submits an amended declaration after making one or more installment payments on its estimated tax, the amount of each remaining installment shall be the amount that would have been payable if the estimate in the amended declaration was the original estimate, increased or decreased as appropriate by the amount computed by dividing:

(1) The absolute value of the difference between:

a. The amount paid and

b. The amount that would have been paid if the estimate in the amended declaration was the original estimate by

(2) The number of remaining installments.

(c) Short Taxable Year. Payment of estimated tax for taxable years of less than 12 months shall be made in accordance with rules promulgated by the Secretary.

"§ 105-163.28. *Penalty for underpayment.*—(a) Except as provided in subsection (d), if the amount of estimated tax paid by a corporation during the taxable year is less than the amount of tax imposed upon the corporation under Article 4 for the taxable year, the corporation shall be assessed an additional tax

as a penalty in an amount determined by multiplying the amount of the underpayment as determined under subsection (b), for the period of the underpayment as determined under subsection (c), by the percentage established as the rate of interest on assessments under G.S. 105-241.1(i) that is in effect for the period of the underpayment.

(b) The amount of the underpayment shall be the difference between:

(1) the amount of the installment the corporation would have been required to pay if the corporation's estimated tax equalled eighty percent (80%) of the tax imposed under Article 4 for the taxable year, assuming the same schedule of installments, or eighty percent (80%) of the tax imposed for the taxable year if the corporation made no installment payments; and

(2) the amount, if any, of the corresponding installment timely paid by the corporation.

(c) The period of the underpayment shall run from the date the installment was required to be paid to the earlier of:

(1) the 15th day of the 3rd month following the close of the taxable year, or

(2) with respect to any portion of the underpayment, the date on which the portion is paid. An installment payment of estimated tax shall be considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under subdivision (1) of subsection (b) for that installment date.

(d) The penalty for underpayment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installments equals or exceeds the amount that would have been required to be paid on or before that date if the estimated tax was equal to the least of:

(1) the tax shown on the return of the corporation for the preceding taxable year, if the corporation filed a return for the preceding taxable year and the preceding year was a taxable year of 12 months;

(2) an amount equal to the tax computed at the rates applicable to the taxable year but otherwise on the basis of the facts shown on the return of the corporation for, and the law applicable to, the preceding taxable year; or

(3) an amount equal to eighty percent (80%) of the tax for the taxable year computed by placing on an annualized basis the taxable income:

a. for the first three months of the taxable year, in the case of the installment required to be paid in the 4th month;

b. for the first three months or for the first five months of the taxable year, in the case of the installment required to be paid in the 6th month;

c. for the first six months or for the first eight months of the taxable year, in the case of the installment required to be paid in the 9th month; and

d. for the first nine months or for the first 11 months of the taxable year, in the case of the installment required to be paid in the 12th month of the taxable year.

(4) For purposes of this subdivision, the taxable income shall be placed on an annualized basis by multiplying by 12 the taxable income referred to in the preceding sentence, and dividing the resulting amount by the

number of months in the taxable year (3, 5, 6, 8, 9, or 11 as the case may be) referred to in that sentence.

"§ 105-163.29. *Filing of declarations and other returns.*—The declarations, amended declarations, or any information returns required under the provisions of this Article from any corporation shall be signed by its president, vice-president, treasurer, assistant treasurer, secretary, or assistant secretary. If a receiver, trustee in bankruptcy, or assignee, by order of a court of competent jurisdiction or by operation of law or otherwise, has possession of or holds title to all or substantially all of the property or business of a corporation, whether or not the property or business is being operated, the receiver, trustee, or assignee shall make and sign the declarations, amended declarations, or any information returns for the corporation in the same manner and form as required of the corporation.

"§ 105-163.30. *Overpayment refunded.*—Any overpayment of estimated tax shall be credited to the taxpayer and applied to the tax imposed upon the taxpayer by Article 4. The Secretary shall not refund any overpayment before the corporation files its annual return. If, upon examining the annual return, the Secretary finds that the estimated tax paid by the corporation exceeds the amount of tax imposed upon the corporation under Article 4, the Secretary shall refund the amount of the overpayment in accordance with the provisions of Article 9.

"§ 105-163.31. *Willful failure to pay estimated tax.*—Any person required by this Article to pay any estimated tax who willfully fails to pay the estimated tax at the time or times required by law or rules shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed five hundred dollars ($500.00) or by imprisonment not to exceed six months, or both."

Part VI. Sales and Use Taxes; Salvage Vehicle Changes.

Sec. 87. The first sentence of G.S. 105-164.3(15) is amended by inserting between the words "lease," and "or" the phrase "license to use or consume,".

Sec. 88. G.S. 105-164.3(20) is amended by adding the following at the end of the subdivision:

"The term includes all 'canned' or prewritten computer programs, either in the form of written procedures or in the form of storage media on which or in which the program is recorded, held, or existing for general or repeated sale, lease, or license to use or consume. The term does not include the design, development, writing, translation, fabrication, lease, license to use or consume, or transfer for a consideration of title or possession of a custom computer program, other than a basic operational program, either in the form of written procedures or in the form of storage media on which or in which the program is recorded, or any required documentation or manuals designed to facilitate the use of the custom computer program.

As used in this subdivision:

a. 'Basic operational program' or 'control program' means a computer program that is fundamental and necessary to the functioning of a computer. A basic operational program is that part of an operating system, including supervisors, monitors, executives, and control or master programs, which consists of the control program elements of that system. A control or master program, as opposed to a processing program, controls the operation of a computer by managing the

allocation of all system resources, including the central processing unit, main storage, input/output devices, and processing programs. A processing program is used to develop and implement the specific applications the computer is to perform.

b. 'Computer program' means the complete plan for the solution of a problem, such as the complete sequence of automatic data-processing equipment instructions necessary to solve a problem, and includes both systems and application programs and subdivisions, such as assemblers, compliers, routines, generators, and utility programs.

c. 'Custom computer program' means a computer program prepared to the special order of the customer. Custom computer programs include one of the following elements:

1. Preparation or selection of the programs for the customer's use requires an analysis of the customer's requirements by the vendor; or
2. The program requires adaptation by the vendor to be used in a particular make and model of computer utilizing a specified output device.

d. 'Storage media' means punched cards, tapes, disks, diskettes, or drums."

Sec. 89. G.S. 105-164.4(1) is amended as follows:

(1) by deleting the phrase "one hundred twenty dollars ($120.00)" in the first paragraph of that subdivision and inserting in lieu thereof the phrase "three hundred dollars ($300.00)"; and

(2) by deleting the third paragraph of that subdivision and inserting the following paragraphs in lieu thereof:

"Notwithstanding G.S. 105-164.3(16), the sales price of a motor vehicle is the gross sales price of the motor vehicle less any allowance given for a motor vehicle taken in trade as part of the consideration for the purchased motor vehicle.

The tax levied under this section applies to all retail sales of motor vehicles, regardless whether the seller is engaged in business as a retailer of motor vehicles and regardless whether a tax has previously been paid under this Article with respect to the vehicle. Purchasers of motor vehicles from sellers who are not retailers are liable for payment of the tax. These purchasers shall pay the tax to the Commissioner of Motor Vehicles when applying for a certificate of title, registration, or registration plate for the vehicle. The sales price of a motor vehicle purchased from a seller who is not a retailer is considered to be either the standard value for the year, make, and model of that vehicle as established in schedules of value adopted by the Secretary or the amount paid by the purchaser for that vehicle, whichever is greater, provided the seller does not take a motor vehicle in trade as part of the purchase price. If the seller takes a motor vehicle in trade as part of the purchase price, the sales price of the motor vehicle sold is considered to be the difference in the standard value of the sold vehicle and the traded-in vehicle or the net amount paid by the purchaser, whichever is greater.

Every retail dealer of motor vehicles who sells a motor vehicle shall, when applying for a transfer of title for that vehicle, certify to the Commissioner of Motor Vehicles that he has collected the sales tax due on the sale of that vehicle and will remit the tax to the Secretary, and shall report the following information to the Commissioner:

(1) his name;

(2) the name of the purchaser; and

(3) the make and serial number of the vehicle sold.

The Commissioner of Motor Vehicles shall prepare forms to be used by retailers to make the certification and report required by this subsection. A retail dealer of motor vehicles who transfers a motor vehicle to another person by means other than a retail sale shall state on the certification form that no tax is due on the transfer of the motor vehicle because the transfer is not a retail sale.

No certificate of title, registration, or registration plate, shall be issued for any motor vehicle transferred pursuant to a retail sale unless the tax levied under this section is paid when application is made for transfer of title or the retailer who sold the vehicle makes the required certification and report when applying for transfer of title. The Commissioner of Motor Vehicles shall remit taxes collected by him under this subsection to the Secretary.

Persons who lease or rent motor vehicles shall collect and remit the tax imposed by this Article on the separate retail sale of a motor vehicle in addition to the tax imposed on the proceeds from the lease or rental of the motor vehicle."

Sec. 90. G.S. 105-164.6(3a) is amended as follows:

(1) by rewriting the first two sentences of that subdivision to read:

"Every person, firm, or corporation that purchases or acquires a motor vehicle shall pay a tax at the rate of two percent (2%) of the sales or purchase price of the vehicle, as determined in accordance with G.S. 105-164.4(1), not to exceed three hundred dollars ($300.00) per vehicle. This tax shall be paid to the Commmissioner of Motor Vehicles when applying for a certificate of title or registration plate for the vehicle. A purchaser who furnishes to the Commissioner of Motor Vehicles a certificate from a retailer of motor vehicles engaged in business in this State stating that the purchaser has paid the tax levied on the vehicle by this Article to the retailer is relieved of liability for the tax.";

(2) by adding a new sentence at the end of the first paragraph to read: "The Commissioner of Motor Vehicles shall remit use taxes collected by him under this subdivision to the Secretary."; and

(3) by deleting the second paragraph of the subdivision and inserting the following paragraphs in lieu thereof:

"The tax levied under this section applies to all owners of motor vehicles, regardless whether the owner purchased or acquired the vehicle from a retailer of motor vehicles and regardless whether a tax has previously been paid under this Article with respect to the vehicle. The sales price of a motor vehicle acquired from a person who is not a retailer shall be determined in accordance with G.S. 105-164.4(1).

Persons who lease or rent motor vehicles shall collect and remit the tax imposed by this Article on the separate retail sale of a motor vehicle in addition to the tax imposed on the proceeds from the lease or rental of the motor vehicle."

Sec. 91. G.S. 105-164.13(16) is amended by inserting after the word "articles" the first time and the last time it appears in that subdivision the phrase "other than motor vehicles".

Sec. 92. G.S. 105-164.13(32) is amended by adding a new sentence at the end thereof to read:

"For sales made by a seller who is not a retailer, this exemption applies if the purchaser furnishes the Secretary an affidavit containing the information otherwise required from a retailer within 45 days of the date of the sale."

Sec. 93. G.S. 105-164.4(3) is rewritten to read:

"(3) Operators of hotels, motels, tourist homes, tourist camps, and similar type businesses and persons who rent private residences and cottages to transients are considered retailers under this Article. There is levied upon every such retailer a tax of three percent (3%) of the gross receipts derived from the rental of any room or rooms, lodgings, or accommodations furnished to transients for a consideration. This tax does not apply to any private residence or cottage that is rented for less than 15 days in a calendar year or to any room, lodging, or accommodation supplied to the same person for a period of 90 or more continuous days.

As used in this subdivision, the term 'persons who rent to transients' means (i) owners of private residences and cottages who rent to transients and (ii) rental agents, including 'real estate brokers' as defined in G.S. 93A-2, who rent private residences and cottages to transients on behalf of the owners. If a rental agent is liable for the tax imposed by this subdivision, the owner is not liable."

Sec. 94. G.S. 20-109.1 is amended as follows:

(1) by adding a new sentence at the end of subsection (d) to read:

"In addition to these criminal penalties, any person who violates this section is subject to a civil penalty of up to one hundred dollars ($100.00), to be imposed in the discretion of the Commissioner."; and

(2) by adding a new subsection to read:

"(e) The Commissioner shall charge a fee of ten dollars ($10.00) for issuing a title or forms as required by this section."

Sec. 95. G.S. 105-164.44A is rewritten to read:

"§ 105-164.44A. *Tax on motor vehicle items transferred to Highway Fund.*— Sales and use taxes collected on motor vehicle items and accessories shall be transferred from the General Fund to the Highway Fund as follows:

On a quarterly basis during the fiscal year ending June 30, 1984, the State Treasurer shall transfer from the General Fund to the Highway Fund the amount of twenty-five million eight hundred thousand dollars ($25,800,000), which represents fifteen percent (15%) of the estimated 1983-84 fiscal year sales and use tax collections from motor vehicles, motor vehicle parts, supplies, and accessories, and other transportation items. The quarterly transfers required by this section shall be made during September, December, March, and June of the fiscal year."

Part VII. Certificate-of-Need Fees.

Sec. 96. G.S. 131-177 is amended as follows:

(1) by changing the period at the end of subdivision (9) to a semicolon and adding the word "and"; and

(2) by adding a new subdivision to read:

"(10) Establish and collect fees for submitting applications for certificates-of-need, which fees shall be based on the total cost of the project for which the applicant is applying. This fee may not exceed fifteen thousand dollars ($15,000) and may not be less than four hundred dollars ($400.00)."

Sec. 97. G.S. 131-180 is amended by adding a new subsection to read:

"(c) All fees established by the Department for submitting an application for a certificate-of-need are due when the application is submitted. These fees are not refundable, regardless whether a certificate-of-need is issued."

Part VIII. Video Game Privilege License Tax.

Sec. 98. G.S. 105-66(b) is rewritten to read:

"The tax imposed under this section does not apply to machines and other devices licensed under G.S. 105-64, 105-65, or 105-66.1."

Sec. 99. Article 2 of Chapter 105 is amended by adding a new section to read:

"§ 105-66.1. *Electronic video games.*—(a) Every person, firm, or corporation engaged in the business of owning or operating machines that play electronic video games when a coin or other thing of value is deposited in the machine shall obtain from the Secretary of Revenue a statewide license for each machine owned or operated and shall pay a tax of fifteen dollars ($15.00) for each license. An application for a license shall include the serial number of the machine operated. The licensee shall attach the license to the machine in a conspicuous place. No person may allow an unlicensed video game machine in a place of business occupied by that person. Licenses issued under this section are not transferable from one machine to another. The Secretary may seize any machine not licensed in accordance with this section and may hold the machine until it is duly licensed. All machines licensed under this section shall have a counter that records the number of games played or the amount of money deposited in the machine, or both.

(b) As used in this section, a person, firm, or corporation is 'engaged in the business of owning an electronic video game machine' if he owns the machine and locates it in his own place of business; and a person, firm, or corporation is 'engaged in the business of operating an electronic video game machine' if he locates, exhibits, displays, or permits to be exhibited or displayed an electronic video game machine in a place of business other than his own.

(c) Counties, cities, and towns may levy a tax, not to exceed five dollars ($5.00) per machine, on the business taxed under this section."

Part IX. Alcoholic Beverage Fees and Taxes.

Sec. 100. G.S. 18B-804(b) is amended by adding a new subdivision to read:

"(6a) An additional bottle charge for local boards of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters."

Sec. 101. G.S. 18B-804(b)(8) is amended by deleting the phrase "ten dollars ($10.00)" and substituting the phrase "fifteen dollars ($15.00)".

Sec. 102. G.S. 18B-805(b)(2) is amended by adding a new sentence to read: "In addition to the taxes levied under Chapter 105 of the General Statutes, the local board shall pay to the Department one third of the mixed beverages surcharge required by G.S. 18B-804(b)(8)."

Sec. 103. G.S. 18B-805(b)(3) is amended by deleting the phrase "ten percent (10%)" and substituting the phrase "six and two-thirds percent (6-2/3%)".

Sec. 104. G.S. 18B-805(c)(1) is amended by inserting between the citation "18B-804(b)(5)" and the comma the phrase "and the bottle charge provided for in G.S. 18B-804(b)(6a)".

Sec. 105. G.S. 18B-902(d)(10) is rewritten to read:

"(10) Mixed beverages permit - $750.00."

Sec. 106. G.S. 18B-903(b) is amended by deleting the phrase "fifty percent (50%) of the original fee" and substituting the phrase "five hundred dollars ($500.00)".

Sec. 107. G.S. 105-113.86(a)(2) is amended by deleting the last sentence of that subdivision.

Sec. 108. G.S. 105-113.86(p) is amended in the first sentence by deleting the phrase "subsection (a)" and substituting the phrase "subdivision (a)(1)".

Part X. Effective Dates.

Sec. 109. Part I of this act shall become effective August 1, 1983, and shall apply to all actions initiated on and after that date. Part II shall become effective August 1, 1983, except that Sections 50 and 51 do not apply during the entire 1983 Session to any person registered under Article 9A of Chapter 120 of the General Statutes for the 1983 Session who registered before ratification of this act. Part III is effective upon ratification. Sections 54-60 of Part IV shall become effective January 1, 1984; Section 61 of Part IV shall become effective September 1, 1983, and shall apply to registrations issued on or after that date. Sections 62-85 of Part V are effective for taxable years beginning on or after January 1, 1983; Section 86 of Part V applies to taxable years beginning on or after June 25, 1983. Sections 87-94 of Part VI shall become effective August 1, 1983; Section 95 of Part VI is effective upon ratification. Part VII of this act is effective upon ratification and applies to applications received or processed on or after that date. Applicants for a certificate-of-need whose application was submitted but not processed as of the effective date of this act shall remit the fee imposed by this act within 10 days of notification by the Secretary of Human Resources of the amount of the fee. Part VIII shall become effective July 1, 1984. Part IX shall become effective August 1, 1983, except that Sections 105 and 106 shall become effective May 1, 1984.

In the General Assembly read three times and ratified, this the 8th day of July, 1983.

S. B. 196 **CHAPTER 714**

AN ACT TO APPROVE THE SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is added to the General Statutes to read:

"Chapter 104F.

"Southeast Interstate Low-Level

Radioactive Waste Management Compact.

"§ 104F-1. *Compact entered into; form of compact.*—The Southeast Interstate Low-Level Radioactive Waste Management Compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

Southeast Interstate Low-Level

Radioactive Waste Management Compact

ARTICLE I. Policy and purpose

There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize and declare that each

state is responsible for providing for the availability of capacity either within or outside the state for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (P.L. 96-573), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for disposal of such waste. The party states recognize that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to dispose of such waste be properly provided.

It is the policy of the party states to: enter into a regional low-level radioactive waste management compact for the purpose of providing the instrument and framework for a cooperative effort, provide sufficient facilities for the proper management of low-level radioactive waste generated in the region, promote the health and safety of the region, limit the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region, encourage the reduction of the amounts of low-level waste generated in the region, distribute the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states, and ensure the ecological management of low-level radioactive wastes.

Implicit in the congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

1. expeditious enforcement of federal rules, regulations and laws; and
2. imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and
3. timely inspection of their licensees to determine their capability to adhere to such rules, regulations and laws; and
4. timely provision of technical assistance to this compact in carrying out their obligations under the Low-Level Radioactive Waste Policy Act, as amended.

ARTICLE II. Definitions

As used in this compact, unless the context clearly requires a different construction:

(a) 'Commission' or 'Compact Commission' means the Southeast Interstate Low-Level Radioactive Waste Management Commission.

(b) 'facility' means a parcel of land, together with the structures, equipment and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

(c) 'generator' means any person who produces or possesses low-level radioactive waste in the course of or as an incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity. This does not include persons who provide a service to generators by arranging for the collection, transportation, storage or disposal of wastes with respect to such waste generated outside the region.

(d) 'high-level waste' means irradiated reactor fuel, liquid wastes from reprocessing irradiated reactor fuel and solids into which such liquid wastes have been converted, and other high-level radioactive waste as defined by the U.S. Nuclear Regulatory Commission.

(e) 'host state' means any state in which a regional facility is situated or is being developed.

(f) 'low-level radioactive waste' or 'waste' means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or by-product material as defined in section 11e.(2) of the Atomic Energy Act of 1954, or as may be further defined by federal law or regulation.

(g) 'party state' means any state which is a signatory party to this compact.

(h) 'person' means any individual, corporation, business enterprise or other legal entity (either public or private).

(i) 'region' means the collective party states.

(j) 'regional facility' means (1) a facility as defined in this Article which has been designated, authorized, accepted or approved by the Commission to receive waste or (2) the disposal facility in Barnwell County, South Carolina, owned by the State of South Carolina and as licensed for the burial of low-level radioactive waste on July 1, 1982, but in no event shall this disposal facility serve as a regional facility beyond December 31, 1992.

(k) 'state' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

(l) 'transuranic wastes' means waste material containing transuranic elements with contamination levels as determined by the regulations of (1) the U.S. Nuclear Regulatory Commission or (2) any host state, if it is an agreement state under section 274 of The Atomic Energy Act of 1954.

(m) 'waste management' means the storage, treatment or disposal of waste.

ARTICLE III. Rights and obligations

The rights granted to the party states by this compact are additional to the rights enjoyed by sovereign states, and nothing in this compact shall be construed to infringe upon, limit or abridge those rights.

(a) Subject to any license issued by the U.S. Nuclear Regulatory Commission or a host state each party state shall have the right to have all wastes generated within the borders stored, treated, or disposed of, as applicable at regional facilities, and additionally shall have the right of access to facilities made available to the region through agreements entered into by the Commission pursuant to Article IV (e)(9). The right of access by a generator within a party state to any regional facility is limited by its adherence to applicable state and federal law and regulation.

(b) If no operating regional facility is located within the borders of a party state and the waste generated within its borders must therefore be stored, treated, or disposed of at a regional facility in another party state, the party state without such facilities may be required by the host state or states to establish a mechanism which provides compensation for access to the regional facility according to terms and conditions established by the host states and approved by a two-thirds vote of the Commission.

(c) Each party state shall establish the capability to regulate, license and ensure the maintenance and extended care of any facility within its borders. Host states are responsible for the availability, the subsequent post closure

observation and maintenance, and the extended institutional control of their regional facilities, in accordance with the provisions of Article V, section (b).

(d) Each party state shall establish the capability to enforce any applicable federal or state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders.

(e) Each party state shall provide to the Commission on an annual basis, any data and information necessary to the implementation of the Commission's responsibilities. Each party state shall establish the capability to obtain any data and information necessary to meet its obligation herein defined.

(f) Each party state shall, to the extent authorized by federal law, require generators within its borders to use the best available waste management technologies and practices to minimize the volumes of wastes requiring disposal.

ARTICLE IV. The Commission

(a) There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Commission, ("the Commission" or "Compact Commission"). The Commission shall consist of two voting members from each party state to be appointed according to the laws of each state. The appointing authorities of each state must notify the Commission in writing of the identity of its members and any alternates. An alternate may act on behalf of the member only in the member's absence.

(b) Each Commission member shall be entitled to one vote. No action of the Commission shall be binding unless a majority of the total membership cast their vote in the affirmative, or unless a greater than majority vote is specifically required by any other provision of this compact.

(c) The Commission shall elect from among its members a presiding officer. The Commission shall adopt and publish, in convenient form, by-laws which are consistent with this compact.

(d) The Commission shall meet at least once a year and shall also meet upon the call of the presiding officer, by petition of a majority of the party states, or upon the call of a host state. All meetings of the Commission shall be open to the public.

(e) The Commission has the following duties and powers:

(1) to receive and approve the application of a non-party state to become an eligible state in accordance with Article VII (b); and

(2) to receive and approve the application of an eligible state to become a party state in accordance with Article VII (c); and

(3) to submit an annual report and other communications to the governors and to the presiding officer of each body of the legislature of the party states regarding the activities of the Commission; and

(4) to develop and use procedures for determining, consistent with considerations for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region; and

(5) to provide the party states with reference guidelines for establishing the criteria and procedures for evaluating alternative locations for emergency or permanent regional facilities; and

(6) to develop and adopt within one year after the Commission is constituted as provided for in Article VII, section (d), procedures and criteria for identifying a party state as a host state for a regional facility as determined pursuant to the requirements of this Article. In

accordance with these procedures and criteria, the Commission shall identify a host state for the development of a second regional disposal facility within three years after the Commission is constituted as provided for in Article VII, section (d) and shall seek to ensure that such facility is licensed and ready to operate as soon as required but in no event later than 1991.

In developing criteria, the Commission must consider the following: the health, safety, and welfare of the citizens of the party states; the existence of regional facilities within each party state; the minimization of waste transportation; the volumes and types of wastes generated within each party state; and the environmental, economic and ecological impacts on the air, land, and water resources of the party states.

The Commission shall conduct such hearings; require such reports, studies, evidence and testimony; and do what is required by its approved procedures in order to identify a party state as a host state for a needed facility; and

(7) in accordance with the procedures and criteria developed pursuant to section (e)(6) of this Article, to designate, by a two-thirds vote, a host state for the establishment of a needed regional facility. The Commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facility. The Commission shall have the authority to revoke the membership of a party state that willfully creates barriers to the siting of a needed regional facility; and

(8) to require of and obtain from party states, eligible states seeking to become party states, and non-party states seeking to become eligible states, data and information necessary to the implementation of Commission responsibilities; and

(9) notwithstanding any other provision of this compact, to enter into agreements with any person, state, or similar regional body or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import requires a two-thirds majority vote of the Commission, including an affirmative vote of both representatives of the host state in which any affected regional facility is located. This shall be done only after an assessment of the affected facilities' capability to handle such wastes; and

(10) to act or appear on behalf of any party state or states, only upon written request of both members of the Commission for such state or states, as an intervenor or party in interest before Congress, state legislatures, any court of law, or federal, state or local agency, board or commission which has jurisdiction over the management of wastes. The authority to act, intervene or otherwise appear shall be exercised by the Commission only after approval by a majority vote of the Commission; and

(11) to revoke the membership of a party state in accordance with Article VII (f).

(f) The Commission may establish such advisory committees as it deems necessary for the purpose of advising the Commission on any and all matters pertaining to the management of low-level radioactive waste.

(g) The Commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out such functions as may be assigned to it by the Commission. If the Commission has a headquarters it shall be in a party state.

(h) Funding for the Commission shall be provided as follows:

(1) each eligible state, upon becoming a party state, shall pay twenty-five thousand dollars ($25,000) to the Commission which shall be used for costs of the Commission's services.

(2) each state hosting a regional disposal facility shall annually levy special fees or surcharges on all users of such facility, based upon the volume of wastes disposed of at such facilities, the total of which:

a. shall be sufficient to cover the annual budget of the Commission; and

b. shall represent the financial commitments of all party states to the Commission; and

c. shall be paid to the Commission, provided, however, that each host state collecting such fees or surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budgets of the Commission.

(3) The Commission shall set and approve its first annual budget as soon as practicable after its initial meeting. Host states for disposal facilities shall begin imposition of the special fees and surcharges provided for in this section as soon as practicable after becoming party states, and shall remit to the Commission funds resulting from collection of such special fees and surcharges within 60 days of their receipt.

(i) The Commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of Commission funds, and submit an audit report to the Commission. Such audit report shall be made a part of the annual report of the Commission required by Article IV (e)(3).

(j) The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials and services (conditional or otherwise) from any State or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. The nature, amount and condition, if any, attendant upon any donation or grant accepted pursuant to this paragraph together with the identity of the donor, grantor or lendor, shall be detailed in the annual report of the Commission.

(k) The Commission shall not be responsible for any costs associated with (1) the creation of any facility, (2) the operation of any facility, (3) the stabilization and closure of any facility, (4) the post-closure observation, and maintenance of any facility, or (5) the extended institutional control, after post-closure observation and maintenance of any facility.

(l) As of January 1, 1986, the management of wastes at regional facilities is restricted to wastes generated within the region, and to wastes generated within non-party states when authorized by the Commission pursuant to the

provisions of this compact. After January 1, 1986, the Commission may prohibit the exportation of waste from the region for the purposes of management.

(m) (1) The Commission herein established is a legal entity separate and distinct from the party states, capable of acting in its own behalf, and shall be so liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not be personally liable for action taken by them in their official capacity.

(2) Except as specifically provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any causal or other relationships. Generators, transporters of wastes, owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

ARTICLE V. Development and operation of facilities

(a) Any party state which becomes a host state in which a regional facility is operated, shall not be designated by the Compact Commission as a host state for an additional regional facility until each party state has fulfilled its obligation, as determined by the Commission, to have a regional facility operated within its borders.

(b) A host state desiring to close a regional facility located within its borders may do so only after notifying the Commission in writing of its intention to do so and the reasons therefor. Such notification shall be given to the Commission at least four years prior to the intended date of closure. Notwithstanding the four year notice requirement herein provided, a host state is not prevented from closing its facility or establishing conditions of use and operations as necessary for the protection of the health and safety of its citizens. A host state may terminate or limit access to its regional facility if it determines Congress has materially altered the conditions of this compact.

(c) Each party state designated as a host state for a regional facility shall take appropriate steps to ensure that an application for a license to construct and operate a facility of the designated type is filed with and issued by the appropriate authority.

(d) No party state shall have any form of arbitrary prohibition on the treatment, storage or disposal of low-level radioactive waste within its borders.

ARTICLE VI. Other laws and regulations

(a) Nothing in this compact shall be construed to:

(1) abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any federal agency expressly conferred thereon by the Congress;

(2) abrogate or limit the regulatory responsibility and authority of the U.S. Nuclear Regulatory Commission or of an agreement state under section 274 of the Atomic Energy Act of 1954 in which a regional facility is located;

(3) make inapplicable to any person or circumstance any other law of a party state which is not inconsistent with this compact;

(4) make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective, except that any such facility shall comply with Article III, Article IV and Article V and shall be subject to any action lawfully taken pursuant thereto;

(5) prohibit any storage or treatment of waste by the generator on its own premises;

(6) affect any judicial or administrative proceeding pending on the effective date of this compact;

(7) alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions;

(8) affect the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the Secretary of the U.S. Department of Energy or federal research and development activities as defined in P.L. 96-573;

(9) affect the rights and powers of any party state and its political subdivisions to regulate and license any facility within its borders or to affect the rights and powers of any party state and its political subdivisions to tax or impose fees on the waste managed at any facility within its borders.

(b) No party state shall pass any law or adopt any regulation which is inconsistent with this compact. To do so may jeopardize the membership status of the party state.

(c) Upon formation of the compact no law or regulation of a party state or of any sub-division or instrumentality thereof may be applied so as to restrict or make more inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

(d) Restrictions of waste management of regional facilities pursuant to Article IV(l) shall be enforceable as a matter of state law.

ARTICLE VII. Eligible parties, withdrawal, revocation, entry into force, termination

(a) This compact shall have as initially eligible parties the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee and Virginia.

(b) Any state not expressly declared eligible to become a party state to this compact in section (a) of this Article may petition the Commission, once constituted, to be declared eligible. The Commission may establish such conditions as it deems necessary and appropriate to be met by a state wishing to become eligible to become a party state to this compact pursuant to the provisions of this section. Upon satisfactorily meeting such conditions and upon the affirmative vote of two-thirds of the Commission, including the affirmative vote of both representatives of a host state in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the same manner as those states declared eligible in section (a) of this Article.

(c) Each state eligible to become a party state to this compact is declared a party state upon enactment of this compact into law by that state and upon payment of the fees required by Article IV (h)(1). The Commission shall be the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and the laws of the party states relating to the enactment of this compact.

(d) (1) The first three states eligible to become party states to this compact which enact this compact into law and appropriate the fees required by Article IV (h)(1) shall immediately, upon the appointment of their

Commission members, constitute themselves as the Southeast Low-Level Radioactive Waste Management Commission, shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall do those things necessary to organize the Commission and implement the provisions of this compact.

(2) All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of section (c) of this Article.

(3) The consent of the Congress shall be required for full implementation of this compact. The provisions of Article V, section (d) shall not become effective until the effective date of the import ban authorized by Article IV, section (l) as approved by Congress. The Congress may by law withdraw its consent only every five years.

(e) No state which holds membership in any other regional compact for the management of low-level radioactive waste may be considered by the Compact Commission for eligible state status or party state status.

(f) Any party state which fails to comply with the provisions of this compact or to fulfill the obligations incurred by becoming a party state to this compact may be subject to sanctions by the Commission, including suspension of its rights under this compact and revocation of its status as a party state. Any sanction shall be imposed only on the affirmative vote of at least two-thirds of the Commission members. Revocation of party state status may take effect on the date of the meeting at which the Commission approves the resolution imposing such sanction, but in no event shall revocation take effect later than 90 days from the date of such meeting. Rights and obligations incurred by being declared a party state to this compact shall continue until the effective date of the sanction imposed or as provided in the resolution of the Commission imposing the sanction.

The Commission shall, as soon as practicable after the meeting at which a resolution revoking status as a party state is approved, provide written notice of the action along with a copy of the resolution to the governors, the Presidents of the Senates, and the Speakers of the Houses of Representatives of the party states, as well as chairmen of the appropriate committees of the Congress.

(g) Any party state may withdraw from this compact by enacting a law repealing the compact, provided that if a regional facility is located within such state, such regional facility shall remain available to the region for four years after the date the Commission receives notification in writing from the governor of such party state of the rescission of the compact. The Commission, upon receipt of the notification, shall as soon as practicable provide copies of such notification to the governors, the Presidents of the Senates, and the Speakers of the Houses of Representatives of the party states as well as the chairmen of the appropriate committees of the Congress.

(h) This compact may be terminated only by the affirmative action of the Congress or by the rescission of all laws enacting the compact in each party state.

ARTICLE VIII. Penalties

(a) Each party state, consistently with its own law, shall prescribe and enforce penalties against any person not an official of another state for violation of any provision of this compact.

(b) Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws and regulations can result in imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

ARTICLE IX. Severability and construction

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purposes thereof."

Sec. 2. Chapter 104F of the General Statutes is amended by adding two new sections to read:

"§ 104F-2. *Appointment of members to the Southeast Interstate Low-Level Radioactive Waste Management Commission.*—The Governor shall appoint two members to the Southeast Interstate Low-Level Radioactive Waste Management Commission as established by Article IV of the compact. Members shall serve at the pleasure of the Governor. The Governor may appoint an alternate for each member who may serve at and for such time as each regular member shall designate and who shall have the same power and authority as the regular member when so serving. Each member and alternate shall possess technical or professional qualifications based on training and experience in the management or regulation of low-level radioactive waste sufficient to assure informed judgments when acting as a member of the Commission.

"§ 104F-3. *Violation a misdemeanor.*—Violation of the provisions of this compact by any person not an official of another state is a misdemeanor."

Sec. 3. Chapter 104F of the General Statutes is amended by adding additional new sections to read:

"§ 104F-4. *Advisory Committee.*—The Advisory Committee to the North Carolina Members of the Low-Level Radioactive Waste Management Compact Commission is hereby created. It shall consist of seven voting members, two to be appointed by the Governor, who shall be members of the Radiation Protection Commission, two by the President of the Senate, and two by the Speaker of the House of Representatives. The Chief of the Radiation Protection Section of the Division of Facility Services of the Department of Human Resources shall be an ex officio member. The members shall serve for two-year terms. A vacancy in membership shall be filled by the appointing authority who made the initial appointment. A member whose term expires may be reappointed.

It shall be the duty of the Committee to consult with and advise the State's representatives to the Compact Commission concerning technical and policy matters.

The Governor shall appoint the Committee chairman and he may be reappointed. The Committee shall meet at such times and places as the chairman shall designate. The facilities of the State Legislative Building and

the Legislative Office Building shall be available to the Committee, subject to approval of the Legislative Services Commission. Legislative members of the Committee shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1. Members of the Committee who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Committee who are officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rate set out in G.S. 138-6.

Subject to the approval of the Legislative Services Commission, the staff resources of the Legislative Services Commission shall be available to the Committee without cost except for travel, subsistence, supplies, and materials. The Committee may solicit, employ, or contract for technical assistance and clerical assistance and may purchase or contract for the materials and services it needs.

"§ 104F-5. If any member refuses to accept its designation as a host state, then North Carolina shall immediately withdraw from the Compact subject to the provisions of G.S. 104F-1, Article VII(g) and take appropriate action to limit access to any facility located in this State.

If North Carolina determines at any time that any member state is not acting in good faith in complying with all of the terms of the Compact, then North Carolina shall withdraw immediately."

Sec. 4. The expenses of the Advisory Committee and the twenty-five thousand dollars ($25,000) to be paid by North Carolina pursuant to G.S. 104F-1, Article III(h)(1) shall be paid from the Contingency and Emergency Fund.

Sec. 5. This act shall become effective upon passage of the 1983-1985 current operations appropriations bill.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

H. B. 1130 CHAPTER 715

AN ACT TO CLARIFY THE RAPE VICTIM ASSISTANCE PROGRAM BY SPECIFYING THAT AMBULANCE AND MENTAL HEALTH COUNSELING COSTS ARE COVERED AND TO PROVIDE APPROVED KITS FOR THE COLLECTION OF MEDICAL EVIDENCE IN RAPE CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-480.2(a) is amended by rewriting the second sentence to read as follows:

"Assistance is limited to immediate and short-term medical expenses, ambulance services, and mental health services provided by a professional licensed or certified by the State to provide such services, not to exceed five hundred dollars ($500.00) incurred by the victim for the medical examination, medical procedures to collect evidence, or counseling treatment which follow the attack, or ambulance services from the place of the attack to a place where medical treatment is provided."

Sec. 2. 143B-480.2(b) is rewritten to read as follows:

"Assistance for expenses authorized under this section is to be paid directly to any hospital, ambulance service, attending physicians, or mental health professionals providing counseling, upon the filing of proper forms."

Sec. 3. G.S. 143B-480.3 is amended by adding a new subsection (d) to read:

"(d) Funds appropriated to the Department of Crime Control and Public Safety for this program may be used to purchase and distribute rape evidence collection kits approved by the State Bureau of Investigation."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

H. B. 1263 CHAPTER 716

AN ACT AUTHORIZING NEARBY COUNTIES TO JOIN IN THE BERTIE-MARTIN REGIONAL JAIL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 269 of the 1981 Session Laws is amended as follows:

(A) By rewriting the first sentence of the third paragraph of Section 1 to read: "The governing bodies shall create a Regional Jail Commission composed of no fewer than six members, which shall include three members from each participating unit.";

(B) By changing the period at the end of subdivision (3) in the fourth paragraph of Section 1 to a semicolon and adding a new subdivision to read:

"(4) to define the number of members required to constitute a quorum for the conduct of the meetings and business of the commission, and to adopt rules of order for the conduct of its sessions and business.";

(C) By rewriting the first sentence of the fifth paragraph of Section 1 to read: "The commission shall organize by electing a chairman and one or more vice-chairmen from its members.";

(D) By adding a new sentence between the fifth and sixth sentences of the fifth paragraph of Section 1 to read: "The chairman, however, may cancel any regular meeting for which there is no business to be considered or acted upon, and the secretary-treasurer shall give advance notice in writing to all members of the cancellation."; and

(E) By rewriting Section 2 to read:

"Sec. 2. This act applies only to Bertie and Martin Counties and to other adjoining or nearby counties that mutually agree to participate in the ownership and operation of the regional jail authorized by this act. A county other than Bertie and Martin may join in the ownership and operation of the jail only if the board of commissioners of that county plus the Board of Commissioners of Bertie, Martin, and any other counties then participating in the jail so authorize by joint resolution."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

H. B. 53 **CHAPTER 717**

AN ACT TO MAKE AMENDMENTS CONCERNING THE ADVISORY BUDGET COMMISSION AND OTHER BOARDS TO IMPLEMENT THE RECOMMENDATIONS OF THE COMMITTEE ON SEPARATION OF POWERS.

The General Assembly of North Carolina enacts:

Section 1. This act may be cited as the Separation of Powers Act of 1983.

Sec. 2. (a) G.S. 120-123(21) is amended by deleting "G.S. 116-37", and inserting in lieu thereof "G.S. 116-37.1".

(b) G.S. 120-123(31) is amended by deleting "G.S. 143B-294", and inserting in lieu thereof "G.S. 143B-393".

Sec. 2.1. The fourth sentence of G.S. 143B-452, as it appears in the 1982 Interim Supplement, is repealed.

Sec. 3. G.S. 120-123 is amended by adding the following new subdivisions:

"(33a) The North Carolina Board for Need-Based Medical Student Loans, as established by G.S. 143-47.21.

(34) The Committee on Art in State Buildings, as established by G.S. 143-408.4.

(35) The Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan, as established by G.S. 135-39."

Sec. 4. *Alcoholic Beverage Control Commission.* G.S. 18B-200(a) is amended by deleting the words "by the Governor with the approval of the Advisory Budget Commission", and inserting in lieu thereof, "by the General Assembly in the Budget Appropriation Act".

Sec. 5. *Commissioner of Motor Vehicles.* G.S. 20-2 is amended by deleting the words "by the Governor, with the approval of the Advisory Budget Commission", and inserting in lieu thereof "by the General Assembly in the Budget Appropriation Act".

Sec. 6. *Governor's Highway Patrolmen.* G.S. 20-189 is amended by deleting "and the Advisory Budget Commission", and inserting in lieu thereof "after consultation with the Advisory Budget Commission".

Sec. 7. *Radio System Transfers.* The second paragraph of G.S. 20-196 is repealed.

Sec. 8. *Deputy Banking Commissioner.* G.S. 53-93.1 is amended by deleting the words "by the Governor with the approval of the Advisory Budget Commission", and inserting in lieu thereof "by the General Assembly in the Budget Appropriation Act".

Sec. 9. *Commissioner of Banks.* G. S. 53-96 is amended by deleting "by the Governor subject to the approval of the Advisory Budget Commission", and inserting in lieu thereof "by the General Assembly in the Budget Appropriation Act".

Sec. 10. *State Vehicle Insurance.* The second sentence of G.S. 58-194.1 is repealed.

Sec. 11. *Mutual Burial Association Commission.* The last sentence of G.S. 58-241.6 is rewritten to read:

"The salary of the Burial Association Administrator shall be set in accordance with Chapter 126 of the General Statutes, the State Personnel Act."

Sec. 12. The second sentence of G.S. 58-241.11 is repealed.

Sec. 12.1. *Utilities Commission—Executive Director.* G.S. 62-15(a) is amended by deleting "concurred in by a majority of the Utility Review Committee of the General Assembly", and inserting in lieu thereof the words "after consultation with the Utility Review Committee of the General Assembly".

Sec. 13. *Prison Enterprises.* G.S. 66-58(f) is amended by deleting the words "Advisory Budget Commission" the first time it appears and inserting in lieu thereof "Governor", and by deleting the words "Advisory Budget Commission" the second time they appear and inserting in lieu thereof "Director of the Budget".

Sec. 14. G.S. 148-70 is amended by deleting the words "Advisory Budget Commission", and inserting in lieu thereof the word "Governor".

Sec. 15. *Board of Barber Examiners.* G.S. 86A-6 is amended by deleting "Governor with the approval of the Advisory Budget Commission", and inserting in lieu thereof "Board".

Sec. 16. *Board of Boiler and Pressure Vessel Rules.* G.S. 95-69.13(c) is amended by deleting the words "by the Advisory Budget Commission".

Sec. 17. *State Advisory Council on Occupational Safety and Health.* G.S. 95-134(c) is amended in the last sentence by deleting the words "on a per diem basis which shall be fixed by the Governor and Advisory Budget Commission" and inserting in lieu thereof the words "in accordance with Chapter 138 of the General Statutes".

Sec. 18. The last sentence of G.S. 95-134(d) is amended by deleting "may be fixed by the Commissioner and Advisory Budget Commission", and inserting in lieu thereof "provided in Chapter 138 of the General Statutes".

Sec. 19. *Employment Security Commission.* G.S. 96-3(c) is amended by deleting "fixed by the Governor subject to the approval of the Advisory Budget Commission", and inserting in lieu thereof "fixed by the General Assembly in the Budget Appropriation Act".

Sec. 20. *Industrial Commission.* G.S. 97-78(a) is rewritten to read: "(a) The salaries of the chairman and each of the other commissioners shall be fixed by the General Assembly in the Budget Appropriation Act."

Sec. 21. *State Farm Products.* G.S. 106-26.20 is amended by deleting "and Advisory Budget Commission", and inserting in lieu thereof "after consultation with the Advisory Budget Commission".

Sec. 22. *Milk Commission.* G.S. 106-266.7(d) is amended to read: "Members of the Commission shall receive per diem and allowances as provided in G.S. 138-5."

Sec. 23. (Reserved)

Sec. 24. *Seafood Industrial Park Authority.* G.S. 113-315.26 is amended by rewriting the second sentence to read "The salaries of these personnel shall be fixed by the General Assembly in the Budget Appropriation Act."

Sec. 25. *Education Controller.* G.S. 115C-27 is amended by deleting the words "fixed by the Governor subject to the approval of the Advisory Budget Commission", and inserting in lieu thereof "fixed by the Governor and the State Board of Education after consultation with the Advisory Budget Commission".

Sec. 26. *Community Colleges Staff.* (a) The third sentence of the second paragraph of G.S. 115D-3 is rewritten to read: "The compensation of this

position shall be fixed by the General Assembly in the Budget Appropriation Act."

(b) The third paragraph of G.S. 115D-3 is amended by rewriting the second sentence to read "The compensation of the staff members elected by the Board shall be fixed by the Governor and State Board of Community Colleges after consultation with the Advisory Budget Commission."

Sec. 27. *Community Colleges.* The first sentence of the second paragraph of G.S. 115D-4 is rewritten to read: "The expenditures of any State funds for any capital improvements of existing institutions shall be subject to the prior approval of the State Board of Community Colleges and the Governor, provided that the Governor shall consult with the Advisory Budget Commission before giving approval."

Sec. 27.1. The first sentence of G.S. 115D-4 is rewritten to read: "The establishment of all community colleges and technical institutes or the conversion of any such existing institution into a new type of institution shall be subject to the approval of the General Assembly upon recommendation of the State Board of Community Colleges."

Sec. 27.2. The second sentence of the first paragraph of G.S. 115D-4 is amended by deleting "approval be granted" and inserting in lieu thereof "favorable recommendation be made".

Sec. 27.3. G.S. 115D-33(e) is amended by deleting "granting final approval for" and inserting in lieu thereof "favorably recommending approval of".

Sec. 28. *Community Colleges Local Extension.* G.S. 115D-5(e) is amended by deleting "and the Advisory Budget Commission", and by adding before the period at the end of the first sentence the words", provided that the Governor shall consult with the Advisory Budget Commission before giving approval".

Sec. 29. *The University of North Carolina.* G.S. 116-11(9)b. is amended by deleting "Advisory Budget Commission", and inserting in lieu thereof the words "Director of the Budget (after the Director of the Budget consults with the Advisory Budget Commission)".

Sec. 30. G.S. 116-11(9)c. is amended by deleting "Advisory Budget Commission", and inserting in lieu thereof "Director of the Budget after consultation with the Advisory Budget Commission".

Sec. 31. *University Endowment Fund.* G.S. 116-36(g) is amended by deleting the words "Advisory Budget Commission", and inserting in lieu thereof "Director of the Budget after the Director of the Budget consults with the Advisory Budget Commission".

Sec. 32. *North Carolina Memorial Hospital.* G.S. 116-37(e) is amended by deleting the words "Advisory Budget Commission" and inserting in lieu thereof "Director of the Budget after consultation with the Advisory Budget Commission".

Sec. 33. *College Revolving Fund.* Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-168.1. *Payments.*—Notwithstanding G.S. 116-168, all moneys received in payment of principal and interest on loans made from said fund shall be paid to the General Fund."

Sec. 34. Article 17 of Chapter 116 of the General Statutes is repealed.

Sec. 35. *Grants to Students.* G.S. 116-209.19 is amended by deleting "Advisory Budget Commission, after consultation with the Secretary of Administration", and inserting in lieu thereof "Secretary of Administration, after consultation with the Advisory Budget Commission", and by deleting "Advisory Budget Commission" the second time it appears and inserting in lieu thereof "Secretary of Administration".

Sec. 36. *North Carolina Housing Finance Agency.* G.S. 122A-4(f) is amended by rewriting the eighth sentence to read "The salary of the Executive Director shall be fixed by the Governor after consultation with the Advisory Budget Commission."

Sec. 36.1. The seventh sentence of G.S. 122A-4(f) is amended by deleting the words "designated as secretarial, clerical, or administrative", and inserting in lieu thereof "other than the Executive Director".

Sec. 37. The tenth sentence of G.S. 122A-4(f) is amended by deleting the words "the Advisory Budget Commission shall fix the compensation of such officers" and inserting in lieu thereof the words "the General Assembly shall fix the compensation of such officers in the Budget Appropriation Act."

Sec. 38. G.S. 122A-8.1 is amended by deleting the words "Advisory Budget Commission", and inserting in lieu thereof the words "Director of the Budget after consultation with the Advisory Budget Commission".

Sec. 39. *North Carolina Industrial Development Financing Authority.* Chapter 123A of the General Statutes is repealed.

Sec. 40. *State Personnel Director.* The next to last sentence of G.S. 126-3 is amended to read "The salary of the Director shall be fixed by the General Assembly in the Budget Appropriation Act."

Sec. 41. *State Personnel Act.* G.S. 126-5(c) is amended by deleting the words "or the Advisory Budget Commission or" and inserting in lieu thereof the words "or consultation with the Advisory Budget Commission or fixed by".

Sec. 42. *Athletic Competition.* G.S. 126-8.1(c) is amended by deleting "and the Advisory Budget Commission", and inserting "after consultation with the Advisory Budget Commission".

Sec. 43. *Employee Awards.* G.S. 126-67 is amended by deleting "with the approval of", and inserting in lieu thereof the words "after consultation with".

Sec. 43.1. *Capital Building Authority.* G.S. 129-40 is rewritten to read:

"§ 129-40. *Creation of North Carolina Capital Building Authority.*—(a) There is hereby created the North Carolina Capital Building Authority which shall consist of the following: five members to be appointed by the Governor, and four members to be appointed by the General Assembly in accordance with G.S. 120-121, two each upon the recommendation of the President of the Senate and the Speaker of the House of Representatives.

(b) The Governor shall designate the chairman from among the members to serve at his pleasure, and the authority shall elect a vice-chairman to serve at its pleasure. The Secretary of Administration shall designate an officer or employee of the Department of Administration to serve as Secretary to the Authority.

(c) Members of the Commission shall be appointed for two-year terms to commence July 1, 1983, and appointments shall be made biennially thereafter.

(d) Vacancies in appointments made by the Governor shall be filled by the Governor, and vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(e) A quorum shall be six members of the Authority."

Sec. 43.2. G.S. 120-123 is amended by adding a new subsection to read:

"(39) The North Carolina Capital Building Authority as established by G.S. 129-40."

Sec. 43.3. G.S. 129-42(3) and (4) are each amended by adding immediately after the word "Commission", the words "and to the Joint Legislative Commission on Governmental Operations".

Sec. 43.4. G.S. 129-42 is amended by adding a new subdivision to read:

"(5) To establish by rule a process by which there is adequate notice in the area where such construction is to take place that the North Carolina Capital Building Authority will be awarding contracts for planning, design, or construction."

Sec. 43.5. G.S. 129-42.1 is amended by deleting the words "community colleges, industrial education centers, and technical institutes, as defined in G.S. 115A-2, and public schools, as defined in G.S. 115-6, that are under the supervision of county or city administrative units, as provided in General Statutes Chapter 115", and inserting in lieu thereof "community colleges, technical colleges and technical institutes, as defined in G.S. 115D-2, and public schools, as defined in G.S. 115C-75, that are under the supervision of local school administrative units as provided in Chapter 115C of the General Statutes."

Sec. 44. G.S. 129-42.2 is amended by adding the following new language immediately before the period at the end:

"; provided, that the Authority may, after receiving the list, request one or more additional names from the agency or institution, and when that supplemental list is received, may consider that along with the original list".

Sec. 45. *State Highway Administrator.* The third sentence of G.S. 136-4 is rewritten to read "He shall be paid a salary fixed by the General Assembly in the Budget Appropriation Act."

Sec. 46. *Highway Fund Transfers.* The first sentence of the fifth paragraph of G.S. 136-44.2 is repealed.

Sec. 47. The second sentence of the fourth paragraph of G.S. 136-44.2 is rewritten to read: "No federally eligible construction project may be funded entirely with State funds unless the Department of Transportation has first consulted with the Joint Legislative Commission on Governmental Operations."

Sec. 48. *Rail Revitalization.* G.S. 136-44.37 and G.S. 136-44.38 are amended by deleting in each place the words "Advisory Budget Commission", and inserting in lieu thereof "Director of the Budget after the Director of the Budget consults with the Advisory Budget Commission."

Sec. 49. *Salary of Administrative Officers.* The first three sentences of G.S. 138-4 are deleted and the following inserted in lieu thereof:

"The salaries of all State administrative officers not subject to the State Personnel Act shall be payable in equal monthly installments, and if no provision is otherwise made by law, shall be set by the Governor subject to consultation with the Advisory Budget Commission.

Whenever by law it is provided that a salary shall be fixed or set by the General Assembly in the Budget Appropriation Act, and that office or position is filled by appointment of the Governor, or the appointment is subject to the approval of the Governor, or is made by a commission a majority of whose

members are appointed by the Governor, then the Governor may, after consultation with the Advisory Budget Commission, increase or decrease the salary of a new appointee by a maximum of ten percent (10%) over or under the salary of that position as provided in the Budget Appropriation Act, such increased or decreased salary to remain in effect until changed by the General Assembly or until the end of the fiscal year, whichever occurs first. This section does not apply to any office filled by election by the people, and does not apply to any office in the legislative or judicial branches."

Sec. 50. The second and third sentences of the first paragraph of G.S. 143A-9 are repealed.

Sec. 51. The second paragraph of G.S. 143B-9 is rewritten to read:

"The salary of the head of each of the principal State departments and of elected officials shall be as provided by law."

Sec. 52. *Art Society.* G.S. 140-12 is amended by deleting the words "and the Advisory Budget Commission", and inserting in lieu thereof "after consultation with the Advisory Budget Commission".

Sec. 53. G.S. 140-12 is amended by deleting the words, "the City of Raleigh" and inserting in lieu thereof the words "Wake County".

Sec. 54. *Budget Preparation.* The third sentence of G.S. 143-11 is amended by deleting the words, "and shall cause to be incorporated therein such statement of disagreement and the particulars thereof, as the Commission or any of its members shall deem proper to submit as representing their views", and inserting in lieu thereof, the words ", and the Commission or any of its members retain the right to submit separately to the General Assembly such statement of disagreement and the particulars thereof as representing their views".

Sec. 55. *ABC Tour Photographer.* G.S. 143-11.1 is repealed.

Sec. 56. *Federal Funds.* G.S. 143-16.1 is rewritten to read:

"§ 143-16.1. *Federal funds.*—All federal funds shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by law. Proposed budgets recommended to the General Assembly by the Governor and Advisory Budget Commission shall include information concerning the federal expenditures in State agencies, departments and institutions in the same manner as State funds."

Sec. 57. *Capital Projects.* The catch line and first two paragraphs of G.S. 143-18.1 are rewritten to read as follows:

"§ 143-18.1. *Decrease of projects within capital improvement appropriations; requesting authorization of capital projects not specifically provided for.*—(a) After consultation with the Advisory Budget Commission and upon the request of the administration of a State agency or institution, the Director of the Budget may decrease the scope of a capital improvement project.

(b) After consultation with the Advisory Budget Commission and upon the request of the administration of a State agency or institution, the Director of the Budget may when, in his opinion, it is in the best interest of the State to do so, increase the cost of a capital improvement project within the appropriation made to that State agency or institution within the capital improvement appropriation to that agency or institution for that biennium, provided that the project may not be increased in scope under the authority of this subsection.

(c) Upon the request of the administration of any State agency or institution, the Director of the Budget may accept funds by gift or grant for the

construction of a capital improvement project not specifically provided for or authorized by the General Assembly. These funds shall be placed in a special reserve account to be held by the State Treasurer until the end of the biennium in which the account was established or until the capital improvement project is authorized by the Director of the Budget after consultation with the Advisory Budget Commission and the Capital Building Authority, whichever occurs first. These funds shall be invested and the interest thereon shall be added to the reserve. If the project is not authorized by the end of that biennium, the State Treasurer shall pay the funds accumulated in the special reserve account to the grantor or donor. Upon the establishment of a special reserve account under this section, the Director of the Budget shall notify the Speaker of the House and President of the Senate of the receipt of the funds and the existence of the reserve account. Upon the request of the administration of any State agency or institution, the Governor, after consultation with the Advisory Budget Commission and the Capital Building Authority, may authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be funded by receipts, special funds, self-liquidating indebtedness, other funds, or any combination of funds, but not including funds appropriated from the General Fund. All expenditures under this authorization shall be handled in full compliance with the provisions of the Executive Budget Act."

Sec. 58. *Periodic Allotments.* The second sentence in G.S. 143-25 is amended by deleting the words "by and with the advice and consent of a majority of the Advisory Budget Commission".

Sec. 59. (Reserved)

Sec. 60. *Purchase and Contract.* G.S. 143-49(6) is amended by deleting "Advisory Budget Commission", and inserting in lieu thereof "Secretary of Administration after consultation with the Advisory Budget Commission".

Sec. 61. *Advertising For Bids.* G.S. 143-52 is amended by deleting in both places, "with the approval of", and inserting in lieu thereof "after consultation with".

Sec. 62. *Surplus Sales.* G.S. 143-49(4) is amended by deleting "prior approval of the Director of the Budget and the Advisory Budget Commission", and inserting in lieu thereof the words "prior approval of the Director of the Budget and after consultation with the Advisory Budget Commission".

Sec. 63. *Purchase and Contract.* G.S. 143-53 is amended by deleting the words "Advisory Budget Commission", and inserting in lieu thereof "Secretary of Administration after consultation with the Advisory Budget Commission".

Sec. 64. G.S. 143-53 is amended by deleting "upon filing with the Secretary of State", and inserting in lieu thereof "in accordance with the provisions of Chapter 150A of the General Statutes."

Sec. 64.1. G.S. 143-53 is amended by deleting the words "; and prior to adoption, they shall be submitted to the Attorney General for opinion as to the legal effect thereof".

Sec. 65. G.S. 143-56 is amended by deleting "with the approval of the Advisory Budget Commission" both times those words appear and by deleting the first comma.

Sec. 66. G.S. 143-56 is amended by deleting the word "Except" on line 1 and inserting in lieu thereof "Unless", and by deleting the word "not" on line 3.

Sec. 67. G.S. 143-60 is amended by deleting the words "with the approval of" the first time they appear, and inserting in lieu thereof "after consultation with".

Sec. 68. G.S. 143-60 is amended by deleting the words "with the approval of", both places they appear and inserting in lieu thereof "after consultation with".

Sec. 69. *Federal Public Works.* G.S. 143-215.40 is amended by deleting the words "and the Advisory Budget Commission", and inserting in lieu thereof the words "after the Governor consults with the Advisory Budget Commission".

Sec. 70. *Water Resources Grants.* G.S. 143-215.73 is amended by deleting the words "and approve or disapprove", and inserting in lieu thereof the word "for", and by deleting the word "approval", and inserting in lieu thereof the word "review".

Sec. 71. *Wildlife Resources Commission.* G.S. 143-243(4) is amended by deleting "Advisory Budget Commission and the legislature" and inserting in lieu thereof "General Assembly".

Sec. 72. G.S. 143-243 is amended by deleting the words "in the City of Raleigh", and by deleting the words "and places".

Sec. 73. G.S. 143-246 is amended by deleting the words "subject to the approval of the Advisory Budget Commission", and inserting in lieu thereof "after consultation with the Advisory Budget Commission".

Sec. 74. *Central Motor Pool.* (a) G.S. 143-341(8)i.3. is amended by deleting "and the Advisory Budget Commission".

(b) G.S. 143-341(8)i.7. is amended by deleting "and Advisory Budget Commission" each time it appears.

(c) G.S. 143-341(8)i. is amended by adding a new paragraph to read: "11. To report annually to the General Assembly on any rules adopted, amended or repealed under paragraphs 3, 7, or 7a of this subdivision."

Sec. 75. G.S. 14-247 is amended by deleting "and the Advisory Budget Commission".

Sec. 76. *Office Space of Self-Supporting Agencies.* G.S. 143-342.1 is amended by deleting "Advisory Budget Commission", and inserting in lieu thereof the words "Director of the Budget".

Sec. 77. G.S. 143-342.1 is amended by deleting the words "paid to the Department", and inserting in lieu thereof "paid to the General Fund".

Sec. 78. *Advisory Councils.* The second sentence of G.S. 143B-10(d) is rewritten to read: "The General Assembly declares its policy that insofar as feasible, such committees or councils shall consist of no more than 11 members, with not more than one from each congressional district. If any department head desires to vary this policy, he must make a request in writing to the Governor, stating the reasons for the request. The Governor may approve the request, but may only do so in writing. Copies of the request and approval shall be transmitted to the Advisory Budget Commission and to the Joint Legislative Commission on Governmental Operations."

Sec. 79. *Agency Reorganization Fund Transfer.* G.S. 143B-27 is repealed.

Sec. 80. *Parole Commission.* G.S. 143B-267 is amended by deleting "Governor and approved by the Advisory Budget Commission", and inserting "General Assembly in the Budget Appropriation Act".

Sec. 81. *Standardization Committee.* G.S. 143B-397 and G.S. 143B-398 are repealed. G.S. 143-63 is amended by deleting ", nor of the Standardization Committee" and "or Committee" both times that it appears.

Sec. 82. *Agency For Public Telecommunications.* G.S. 143B-426.11(9) is amended by deleting "Governor subject to the approval of the Advisory Budget Commission", and inserting in lieu thereof "General Assembly in the Budget Appropriation Act".

Sec. 83. *Economic Development Board.* G.S. 143B-434(c) is amended by repealing the last sentence.

Sec. 84. *Ports Authority.* The second sentence of G.S. 143B-454(5) is rewritten to read:

"The salary of the Director shall be fixed by the Governor after consultation with the Advisory Budget Commission."

Sec. 85. *Ports Railway Commission.* G.S. 143B-469.1 is amended by deleting the words "Governor with the approval of the Advisory Budget Commission" and inserting in lieu thereof "General Assembly in the Budget Appropriation Act".

Sec. 86. *Land Sales.* G.S. 146-30(3) is amended by deleting the words "approved by the Director of the Budget and the Advisory Budget Commission", and inserting in lieu thereof "provided by transfer of funds from those accounts in the Budget Appropriation Act".

Sec. 86.1. G.S. 146-30(3) is amended by deleting "approved by the Director of the Budget and the Advisory Budget Commission" and inserting in lieu thereof "provided by transfer of funds from those accounts in the Budget Appropriation Act".

Sec. 86.2. The last paragraph of G.S. 146-30 is amended by adding the following new language immediately before the last sentence:

"In the Budget Appropriation Act, line items for purchase of park and agricultural lands will be established for use by the Departments of Administration and Agriculture. The use of such funds for any specific capital improvement project or land acquisition is subject to approval by the Director of the Budget. No other use may be made of funds in these line items without approval by the General Assembly except for incidental expenses related to the project or land acquisition. Additionally with the approval of the Director of the Budget, either Department may request funds from the Contingency and Emergency Fund when the necessity of prompt purchase of available land can be demonstrated and funds in the capital improvement accounts are insufficient."

Sec. 87. G.S. 146-30(3) is amended by deleting the words "Office of State Budget and Management and the Advisory Budget Commission" and inserting in lieu thereof "and the Office of State Budget and Management".

Sec. 88. *Governor's Private Secretary.* G.S. 147-15 is amended by deleting the words "with the approval of the Advisory Budget Commission".

Sec. 89. *Local Government Unemployment Pool.* G.S. 147-86.1(d) is amended by deleting the words "Advisory Budget Commission" and inserting in lieu thereof "Director of the Budget".

Sec. 90. *Secretary of Revenue.* G.S. 147-87 is amended by rewriting the last sentence to read: "His salary shall be fixed by the General Assembly in the Budget Appropriation Act."

Sec. 91. *Local Government Commission.* The second sentence of G.S. 159-5 is repealed.

Sec.92. *School Buses.* G.S. 115C-243(f) is amended in the first sentence by deleting "State Board of Education" and inserting in lieu thereof "State Board of Education after consultation with the Advisory Budget Commission", by repealing the second sentence and by deleting "with the concurrence of", and inserting in lieu thereof "after consultation with".

Sec. 93. *Milk Commission.* The first paragraph of G.S. 106-266.7(a) is amended by deleting "two of whom shall be appointed by the Lieutenant Governor, two of whom shall be appointed by the Speaker of the House", and inserting in lieu thereof "four of whom shall be appointed by the General Assembly in accordance with G.S. 120-121 (two upon the recommendation of the President of the Senate and two upon the recommendation of the Speaker of the House of Representatives)".

Sec. 94. The first paragraph of G.S. 106-266.7(a) is amended by adding the following new language at the end: "Appointments by the General Assembly shall be in accordance with G.S. 120-121."

Sec. 95. The second paragraph of G.S. 106-266.7(a) is amended by deleting "Lieutenant Governor", and inserting in lieu thereof "General Assembly upon the recommendation of the President of the Senate", and by deleting "Speaker of the House", and inserting in lieu thereof "General Assembly upon the recommendation of the Speaker of the House of Representatives".

Sec. 96. The fourth paragraph of G.S. 106-266.7(a) is amended by deleting the "the Speaker of the House shall appoint one for a term ending June 30, 1978 and one for a term ending June 30, 1979, and the Lieutenant Governor shall appoint one for a term ending June 30, 1978 and one for a term ending June 30, 1979" and inserting in lieu thereof "the General Assembly shall appoint upon the recommendation of the Speaker of the House of Representatives one for a term ending June 30, 1984 and one for a term ending June 30, 1985, and the General Assembly shall appoint upon the recommendation of the President of the Senate one for a term ending June 30, 1986, and one for a term ending June 30, 1987."

Sec. 97. The fourth paragraph of G.S. 106-266.7(a) is further amended by adding immediately after "of the appropriate year:", the words "provided that subsequent appointments by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be for terms of two years, ending on June 30 of the appropriate year."

Sec. 98. The fourth paragraph of G.S. 106-266.7(a) is amended by adding the following new sentence at the end: "Notwithstanding the above, persons appointed by the General Assembly may be removed by the General Assembly, and vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

Sec. 99. G.S. 120-123 is amended by adding a new subsection to read: "(36) The Milk Commission as established by G.S. 106-266.7."

Sec.100. *State Board of Chiropractic Examiners.* The first sentence of G.S. 90-139(a) is amended by deleting the words "Lieutenant Governor and Speaker of the House", and inserting in lieu thereof the words "and General Assembly".

Sec. 101. The second sentence of G.S. 90-139(a) is amended by deleting "and one each by the Lieutenant Governor and the Speaker of the House" and

inserting in lieu thereof the words "and two by the General Assembly in accordance with G.S. 120-121, one each upon the recommendation of the President of the Senate and the Speaker of the House of Representatives".

Sec. 102. The second sentence of G.S. 90-139(b) is amended by deleting the words "three-year".

Sec. 103. The third sentence of G.S. 90-139(b) is rewritten to read "The initial appointment of the General Assembly upon the recommendation of the President of the Senate shall be for a term to expire June 30, 1986, and the initial appointment of the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be for a term to expire June 30, 1985, subsequent appointments upon the recommendation of the President of the Senate shall be for terms of three years, subsequent appointments upon the recommendation of the Speaker of the House of Representatives shall be for terms of two years."

Sec. 104. G.S. 90-139(c) is rewritten to read:

"(c) The Governor and General Assembly, respectively, may remove any member appointed by them for good cause shown. In addition, upon the request of the Speaker of the House of Representatives or the President of the Senate concerning a person appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives or the President of the Senate, respectively, the Governor may remove such appointee for good cause shown, if the request is made and removal occurs either (i) when the General Assembly has adjourned to a date certain, which date is more than 10 days after the date of adjournment, or (ii) after sine die adjournment of the regular session. The Governor may appoint persons to fill vacancies of persons appointed by him to fill unexpired terms. Vacancies in appointments made by the General Assembly shall be in accordance with G.S. 120-122."

Sec. 105. G.S. 120-123 is amended by adding a new subdivision to read:

"(37) The State Board of Chiropractic Examiners as established by G.S. 90-139."

Sec. 106. The first sentence of G.S. 90-140 is rewritten to read: "The Governor and the General Assembly upon the recommendation of the President of the Senate shall appoint chiropractic members of the Board for terms of three years from a list provided by the Board, and the General Assembly upon the recommendation of the Speaker of the House of Representatives shall appoint a chiropractic member of the Board for a term of two years from a list provided by the Board."

Sec. 107. *Manufactured Housing Board.* G.S. 143-143.10(a) is amended by deleting the words "Speaker of the House of Representatives", and inserting in lieu thereof the words "General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121".

Sec. 108. G.S. 143-143.10(a) is further amended by deleting "President Pro Tempore of the Senate", and inserting in lieu thereof "General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121".

Sec. 109. The first sentence of the third paragraph of G.S. 143-143.10(a) is rewritten to read: "The members of the Board shall serve for terms of three years to begin on October 1, 1981, except that the persons appointed by the General Assembly upon the recommendation of the Speaker shall serve two-year terms to expire on September 30, 1985, and the persons appointed by the

General Assembly upon the recommendation of the President Pro Tempore of the Senate shall serve for three-year terms to expire on September 30, 1986. In the event of any vacancy of a position appointed by the Governor or Commissioner of Insurance, the appropriate appointing authority shall appoint a replacement in the same manner as provided for the original appointment to serve the remainder of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

Sec. 110. G.S. 120-123 is amended by adding a new subdivision to read: "(38) The North Carolina Manufactured Housing Board, as established by G.S. 143-143.10."

Sec. 111. G.S. 120-121(c) is amended by adding immediately after the words "Speaker of the House of Representatives" the words ", President Pro Tempore of the Senate,".

Sec. 112. G.S. 120-122 is amended by adding immediately after the words "Speaker of the House of Representatives" the first time they appear, the words ", upon the recommendation of the President Pro Tempore of the Senate,".

Sec. 113. G.S. 120-122 is amended by adding immediately after the words "Speaker of the House of Representatives" the second time they appear the words ", the President Pro Tempore of the Senate,".

Sec. 114. G.S. 143-143.10 is amended by deleting the words "Except for the representatives from the general public", and inserting in lieu thereof the words "Except for the representatives from the general public and the persons appointed by the General Assembly".

Sec. 115. This act is effective upon ratification, except that Section 33 of the bill shall be effective from and after June 17, 1959, Section 34 of the bill shall become effective January 1, 1985, and Sections 86 through 86.2 shall become effective July 1, 1984.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

H. B. 733 CHAPTER 718

AN ACT TO PROVIDE FOR THE LICENSING OF FACILITIES FOR THE MENTALLY ILL, THE MENTALLY RETARDED AND SUBSTANCE ABUSERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 122 of the General Statutes is amended by adding a new Article to read:

"Article 1A.

"Licensure of Facilities for the Mentally Ill,
the Mentally Retarded and Substance Abusers.

"§ 122-23.1. *Purpose.*—The purpose of this Article is to provide for licensure of facilities for the mentally ill, mentally retarded and substance abusers by the development, establishment and enforcement of basic regulations governing:

(1) the provision of services to individuals who receive services from facilities as defined by this Article; and

(2) the construction, maintenance and operation of these facilities, which in the light of existing knowledge will ensure safe and adequate treatment of these individuals.

"§ 122-23.2. *Definitions.*—As used in this Article: (a) 'Area authority' means the governing unit authorized by the Commission for Mental Health, Mental Retardation and Substance Abuse Services and delegated the authority to serve as the comprehensive planning, budgeting, implementing, and monitoring group for community-based mental health, mental retardation, and substance abuse programs. An area authority is a local political subdivision of the State except that a single-county area authority shall be considered a department of the county in which it is located for the purposes of Chapter 159 of the General Statutes.

(b) 'Commission' means the Commission for Mental Health, Mental Retardation and Substance Abuse Services.

(c) 'Department' means the Department of Human Resources.

(d) 'Facility' means any person at one location whose primary purpose is to provide services for one or more minors or for two or more adults for the care, treatment, habilitation or rehabilitation of the mentally ill, the mentally retarded or substance abuser. No one receiving services from a facility shall be related to the operator. These services shall be day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services provided for 24 hours or more.

(e) 'Operator' means the individual who is responsible for the management of a facility.

(f) 'Person' means any individual, firm, partnership, corporation, company, association, joint stock association, agency or area authority.

(g) 'Provisional license' means a type of license granted by the Department to a person who is temporarily unable to comply with a rule or rules adopted under this Article.

(h) 'Secretary' means the Secretary of the Department of Human Resources.

"§ 122-23.3. *Exclusions from licensure; deemed status.*—(a) The following shall be excluded from the provisions of this Article and shall not be required to obtain licensure under this Article:

(1) Physicians and psychologists duly licensed under Chapter 90 of the General Statutes and engaged in private office practice;

(2) General hospitals licensed under Chapter 131, Article 13A, of the General Statutes, which operate psychiatric services;

(3) State and federally operated facilities;

(4) Domiciliary care homes licensed under Chapter 131D of the General Statutes;

(5) Developmental child day-care centers licensed under Chapter 110, Article 7, of the General Statutes;

(6) Persons subject to licensure under standards, rules and regulations of the Social Services Commission; and

(7) Persons subject to rules and regulations of the Division of Vocational Rehabilitation Services.

(b) If a facility is certified by a nationally recognized agency, such as the Joint Commission on Accreditation of Hospitals, then the Commission may by rule deem the facility licensed under this Article. Any facility licensed under deemed status shall continue to be subject to inspection by the Department.

"§ 122-23.4. *Licensure.*—(a) No person shall establish, maintain, or operate a facility for the mentally ill, mentally retarded or substance abusers without a current license issued by the Department.

(b) Each license shall be issued only for the premises named in the application and for the operator named in the application and shall not be transferable or assignable, except with prior written approval from the Department.

(c) Any person who intends to establish, maintain or operate a facility shall apply to the Department for a license. The Department shall prescribe by rule the contents of the application forms.

(d) The Department shall issue a license if it finds that the operator complies with this Article and the rules of the Commission and Department.

(e) Unless a license is provisional or has been suspended or revoked, it shall be valid for up to two years from the date of issue. Renewal of a regular license is contingent upon receipt of information required by the Department for renewal and continued compliance with this Article and the rules of the Commission and Department.

A provisional license shall be in force for a period not to exceed six months during which time the facility shall correct the noncompliance based on a plan submitted to and approved by the Department. The noncompliance shall not present an immediate threat to the health and safety of the individuals in the facility. A provisional license for an additional period of time to meet the noncompliance shall not be issued.

(f) Upon written application, the Department may for good cause waive any of the rules implementing this Article, provided those rules do not affect the health, safety, or welfare of the individuals within the facility. Decisions made pursuant to this subsection may be appealed to the Commission for a hearing in accordance with Chapter 150A of the General Statutes, the Administrative Procedure Act.

"§ 122-23.5. *Adverse action on a license.*—(a) The Department may deny, suspend, amend or revoke a license in any case where it finds that there has been a substantial failure to comply with any provision of this Article or any rule adopted thereunder. Actions under this section shall be in accordance with Department rules and Chapter 150A of the General Statutes, the Administrative Procedure Act.

(b) For each case, the Secretary or a designee shall appoint a hearing officer, who shall issue a proposal for decision in accordance with G.S. 150A-34. In addition to the parties to the hearing, the Commission or members designated by the Chairman shall receive a copy of the proposal for decision and shall be entitled to submit written or oral comments to the Department on the proposal for decision.

(c) Any applicant or licensee who is dissatisfied with the final agency decision of the Department as a result of this hearing may, within 30 days after receipt of a written copy of the final agency decision, request judicial review under Chapter 150A of the General Statutes.

"§ 122-23.6. *Inspections; confidentiality.*—(a) The Department shall make or cause to be made inspections that it may deem necessary, and facilities licensed under this Article shall at all times be subject to inspection by the Department.

(b) Notwithstanding G.S. 8-53 or any other law relating to confidentiality of communications between physician and patient, in the course of an inspection conducted under this section, Department representatives may review any writing or other record concerning the admission, discharge, medication, treatment, medical condition, or history of any individual who is or has been a

facility patient, resident or client and the personnel records of those individuals employed by the facility.

A facility, its employees and any other individual interviewed in the course of an inspection shall be immune from liability for damages resulting from disclosure of any information to the Department.

The Department shall not disclose:

(1) any confidential or privileged information obtained under this section unless the patient or his legal representative authorizes disclosure in writing or unless a court of competent jurisdiction orders disclosure, or

(2) the name of anyone who has furnished information concerning a facility without that individual's consent.

The Department shall institute appropriate policies and procedures to ensure that unauthorized disclosure does not occur. Any Department employee who willfully discloses such information without appropriate authorization or court order shall be guilty of a misdemeanor and upon conviction fined at the discretion of the court but not to exceed five hundred dollars ($500.00).

All confidential or privileged information obtained under this section and the names of persons providing such information shall be exempt from Chapter 132 of the General Statutes.

(c) The Department shall adopt rules regarding inspections, which, at a minimum, shall provide for:

(1) a general administrative schedule for inspections; and

(2) an unscheduled inspection without notice, if there is a complaint alleging the violation of any licensing rule adopted under this Article.

"§ 122-23.7. *Powers of the Commission.*—In addition to other powers and duties prescribed by law, the Commission shall exercise the following powers and duties:

(a) Adopt, amend and repeal rules consistent with the laws of this State and the laws and regulations of the federal government to implement the provisions and purposes of this Article;

(b) Issue declaratory rulings as may be needed to implement the provisions and purposes of this Article;

(c) Develop procedures for appeals of decisions to approve or deny licensure under this Article; and

(d) Develop procedures for waiver of rules adopted under this Article.

"§ 122-23.8. *Powers of the Department.*—The Department shall exercise the following powers and duties:

(a) Administer and enforce the provisions, rules and decisions pursuant to this Article;

(b) Appoint hearing officers to conduct appeals under this Article;

(c) Prescribe by rule the contents of the application for licensure and renewal;

(d) Inspect facilities and records of each facility to be licensed under this Article under the rules and decisions pursuant to this Article;

(e) Issue a license upon a finding that the applicant and facility comply with the provisions of this Article and the rules of the Commission and Department;

(f) Define by rule procedures for submission of periodic reports by facilities licensed under this Article;

(g) Solicit, accept, hold and administer on behalf of the State any grants or bequests of money, securities or property to the Department for use in the administration of this Article;

(h) Grant, deny, suspend or revoke a license under this Article;

(i) Make final agency decisions for appeals from the denial, suspension or revocation of a license in accordance with G.S. 122-23.5;

(j) Grant waiver for good cause of any rules implementing this Article that do not affect the health, safety, or welfare of individuals within a facility.

"§ 122-23.9. *Penalties.*—Any operator who establishes, conducts, manages or operates a facility without a license shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.

"§ 122-23.10. *Injunction.*—(a) Notwithstanding the existence or pursuit of any other remedy, the Department may, in the manner provided by law, maintain an action in the name of the State for injunction or other process against any person to restrain or prevent the establishment, conduct, management or operation of a facility operating without a license or in a manner that threatens the health, safety or welfare of the individuals in the facility.

(b) If any individual shall interfere with the proper performance or duty of the Department in carrying out this Article, the Department may institute an action in the superior court of the county in which the interference occurred for injunctive relief against the continued interference, irrespective of all other remedies at law."

Sec. 2. G.S. 90-109 is rewritten to read:

"§ 90-109. *Licensing required.*—A facility for drug treatment as defined in G.S. 122-23.2 shall obtain the license required by Article 1A of Chapter 122 of the General Statutes permitting operation. Subject to rules governing the operation and licensing of these facilities set by the Commission for Mental Health, Mental Retardation, and Substance Abuse Services, the Department of Human Resources shall be responsible for issuing licenses. These licensing rules shall be consistent with the licensing rules adopted under Article 1A of Chapter 122 of the General Statutes."

Sec. 3. G.S. 122-35.51 and 122-35.52 are rewritten to read:

"§ 122-35.51. *Licensing required.*—Any facility as defined in G.S. 122-23.2 of an area mental health, mental retardation and substance abuse authority operated under the provisions of Chapter 122 of the General Statutes shall obtain a license as required by Article 1A of Chapter 122 of the General Statutes permitting operation. Subject to rules governing the operation and licensing of these facilities set by the Commission, the Department shall be responsible for issuing licenses. These licensing rules shall be consistent with the licensing rules adopted under Article 1A of Chapter 122 of the General Statutes.

"§ 122-35.52. *Appeal from the denial or revocation of a license.*—A facility as defined in G.S. 122-23.2 of an area mental health, mental retardation and substance abuse authority whose license is revoked or whose license application is denied by the Department shall first be given 60 day's written notice specifying the grounds for such revocation or denial. The area mental health, mental retardation, and substance abuse authority is entitled, by written request to the Department within the 60-day period of notification, to a hearing before the Secretary or a designee. The hearing shall be held in accordance with Article 1A of Chapter 122 of the General Statutes. Any area facility whose

license is revoked shall be allowed to continue to operate until the appeal provided by this section is concluded."

Sec. 4. G.S. 122-72 is rewritten to read:

"§ 122-72. *Licensing of private facilities for mentally ill, mentally retarded or inebriates required.*—It shall be unlawful for any person or corporation to establish or maintain a private hospital, home, or school for the cure, treatment or rehabilitation of mentally ill persons, mentally retarded, or inebriates without having a license therefor from the Department of Human Resources as required in Article 1A of Chapter 122 of the General Statutes."

Sec. 5. G.S. 143B-147(a)(2) is rewritten to read:

"(2) To adopt rules and regulations for the inspection, registration and licensing of facilities for the mentally ill, mentally retarded and substance abusers, under Article 1A of Chapter 122 of the General Statutes."

Sec. 6. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 7. This act shall become effective July 1, 1984.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

H. B. 1221 CHAPTER 719

AN ACT TO EXEMPT CERTAIN LIMITED PARTNERSHIP DEBT OBLIGATIONS FROM THE APPLICATION OF THE STATE'S INTEREST LAWS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 24 of the General Statutes of North Carolina is amended by adding a new Section 24-9.2 to read as follows:

"§ 24-9.2. *Certain debt obligations issued by limited partnerships.*—Notwithstanding any other provision of this Chapter or any other provision of law, any limited partnership which offers and sells a single issue in the aggregate principal amount of more than twenty-five thousand dollars ($25,000) of its debt obligations evidenced by a written instrument or instruments may agree to pay interest at any rate set forth in such instruments."

Sec. 2. Article 12 of Chapter 54B of the General Statutes of North Carolina is amended by deleting the word 'Administrator' wherever it appears, and substituting in lieu thereof in each instance the words 'Secretary of Commerce', except the words 'Administrator of the Credit Union Division' found in 54B-246(c) shall remain unchanged."; and further amended by adding the following sentence after the second sentence in G.S. 54B-246(c): "The Administrator, in his capacity as supervisor of State chartered Savings and Loan Associations, may designate agents to participate in such examination; and further amended by deleting the last sentence of G.S. 54B-246(a) and by adding in lieu thereof the following sentence: 'The grant of general control and supervision over mutual deposit guaranty associations to the Secretary of Commerce by this Article shall in no way be deemed to affect the existing powers, duties and responsibilities of the Credit Union Commission, the Commissioner of Banks, the State Banking Commission or the North Carolina

Savings and Loan Commission except for the removal herein of general control and supervision over mutual deposit guaranty associations from the Administrator of the Savings and Loan Division to the Secretary of Commerce.'"

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

H. B. 1260 CHAPTER 720

AN ACT TO MAKE TECHNICAL CONFORMING CHANGES IN THE RAPE INDICTMENT STATUTE AS A RESULT OF CHAPTER 175 OF THE SESSION LAWS OF 1983.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-144.1(b) is amended by substituting "13" for "12" each time it appears in the subsection.

Sec. 2. G.S. 15-144.2(b) is amended by substituting "under the age of 13 years" for "of the age of 12 years or less" on lines 1 and 6 of the subsection.

Sec. 3. G.S. 15-144.2(b) is amended by substituting "under the age of 13 years" for "of 12 years or less" on line 3 of the subsection.

Sec. 4. Chapter 175 of the 1983 Session Laws is amended by rewriting Section 10 of that act to read:

"Sec. 10. This act shall become effective October 1, 1983."

Sec. 5. Sections 1, 2, and 3 of this act shall become effective October 1, 1983. The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

H. B. 1319 CHAPTER 721

AN ACT TO MAKE CERTAIN CHANGES TO VARIOUS CONSUMER PROTECTION STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75-15.2 is amended by deleting the words "specifically prohibited by a court order or" from the first sentence and inserting two new sentences after the first sentence to read:

"In any action brought by the Attorney General pursuant to this Chapter in which it is shown that an action or practice when committed was specifically prohibited by a court order, the Court may, in its discretion, impose a civil penalty of up to five thousand dollars ($5,000) for each violation. Civil penalties may be imposed in a new action or by motion in an earlier action, whether or not such earlier action has been concluded."

Sec. 2. G.S. 14-291.2(c) is amended by deleting the words "a civil penalty against any defendant found to have engaged in the willful promotion of such a scheme with knowledge that such conduct violated this section, in an amount not to exceed two thousand dollars ($2,000) which shall be for the benefit of the General Fund of the State of North Carolina as reimbursement for the expenses incurred in the institution and prosecution of such action" and substituting "civil penalties and attorneys' fees to the Attorney General or the District Attorney pursuant to G.S. 75-15.2 and G.S. 75-16.1".

Sec. 3. G.S. 75-33(b) is amended by deleting the words "telephone, or" and substituting the words "telephone, and".

Sec. 4. G.S. 66-99(b)(3) is amended by deleting the reference "G.S. 66-95(b)" and substituting the reference "G.S. 66-97(b)".

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

H. B. 1354 CHAPTER 722

AN ACT TO AMEND THE SUBPOENA LAW RELATING TO THE PRODUCTION OF DOCUMENTARY EVIDENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 45(a) is amended by adding a new sentence at the end of the subsection to read: "A subpoena for the production of documentary evidence need not be signed by the clerk, and is sufficient if signed by the attorney requesting the same."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

S. B. 618 CHAPTER 723

AN ACT TO GIVE THE CITY OF EDEN AUTHORITY TO ABOLISH THE CITY OF EDEN EMPLOYEES' RETIREMENT SYSTEM UPON TRANSFER OF EMPLOYEES TO THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. The City Council of the City of Eden may abolish the City of Eden Employees' Retirement System established by Chapter 702 of the 1969 Session Laws upon the following conditions:

(1) that at least sixty percent (60%) of the active members, defined as those actively contributing to the fund, vote in the affirmative for the transfer; and

(2) that the City of Eden transfer the assets, the active employees as per the petition and the retirees of the fund to the North Carolina Local Governmental Employees' Retirement System pursuant to G.S. 128-25.

Sec. 2. Should the City of Eden begin participation as an employer in the North Carolina Local Governmental Employees' Retirement System, the City Council of the City of Eden may provide for its employees to receive prior service credit in the Local Governmental Employees' Retirement System equal to the period of prior service credit which the employee has in the City of Eden Retirement System at the time the City began participation as an employer in the Local Governmental Employees' Retirement System, and no other prior service credit shall be given for service with the City of Eden.

Sec. 3. All laws and clauses of laws in conflict with this act are inapplicable.

Sec. 4. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

S. B. 209 **CHAPTER 724**

AN ACT TO AMEND THE MOTOR VEHICLE LAWS IN CHAPTER 20 OF THE GENERAL STATUTES TO CONFORM TRUCK WEIGHTS ON STATE HIGHWAYS TO THE FEDERAL BRIDGE FORMULA AND TO UPDATE THE STATUTE BY MAKING OTHER CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118 is rewritten to read as follows:

"§ 20-118. *Weight of vehicles and load.*—(a) For the purposes of this section, the following definitions shall apply:

(1) Single-axle weight. The gross weight transmitted by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

(2) Tandem-axle weight. The gross weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel vertical planes spaced more than 40 inches and not more than 96 inches apart, extending across the full width of the vehicle.

(3) Axle group. Any two or more consecutive axles on a vehicle or combination of vehicles.

(4) Gross weight. The weight of any single axle, tandem axle, or axle group of a vehicle or combination of vehicles plus the weight of any load thereon.

(5) Light-traffic roads. Any highway on the State Highway System, excepting Routes designated I, U.S. or N.C., posted by the Department of Transportation to limit the axle weight below the statutory limits.

(b) The following weight limitations shall apply to vehicles operating on the highways of the State:

(1) The single-axle weight of a vehicle or combination of vehicles shall not exceed 20,000 pounds.

(2) The tandem-axle weight of a vehicle or combination of vehicles shall not exceed 34,000 pounds.

(3) The gross weight imposed upon the highway by any axle group of a vehicle or combination of vehicles shall not exceed the maximum weight given for the respective distance between the first and last axle of the group of axles measured longitudinally to the nearest foot as set forth in the following table:

Distance Between	Maximum Weight in Pounds for any Group of Two or More Consecutive Axles Including all Tolerances					
Axles*	2 Axles	3 Axles	4 Axles	5 Axles	6 Axles	7 Axles
4	34000					
5	34000					
6	34000					
7	34000					
8	34000	34000				
9	39000	42500				
10	40000	43500				
11		44000				
12		45000	50000			
13		45500	50500			
14		46500	51500			

15	47000	52000			
16	48000	52500	58000		
17	48500	53500	58500		
18	49500	54000	59000		
19	50000	54500	60000		
20	51000	55500	60500	66000	
21	51500	56000	61000	66500	
22	52500	56500	61500	67000	
23	53000	57500	62500	68000	
24	54000	58000	63000	68500	74000
25	54500	58500	63500	69000	74500
26	55500	59500	64000	69500	75000
27	56000	60000	65000	70000	75500
28	57000	60500	65500	71000	76500
29	57500	61500	66000	71500	77000
30	58500	62000	66500	72000	77500
31	59000	62500	67500	72500	78000
32	60000	63500	68000	73000	78500
33		64000	68500	74000	79000
34		64500	69000	74500	80000
35		65500	70000	75000	
36		66000**	70500	75500	
37		66500**	71000	76000	
38		67500**	72000	77000	
39		68000	72500	77500	
40		68500	73000	78000	
41		69500	73500	78500	
42		70000	74000	79000	
43		70500	75000	80000	
44		71500	75500		
45		72000	76000		
46		72500	76500		
47		73500	77500		
48		74000	78000		
49		74500	78500		
50		75500	79000		
51		76000	80000		
52		76500			
53		77500			
54		78000			
55		78500			
56		79500			
57		80000			

*Distance in Feet Between the Extremes of any Group of two or More Consecutive Axles.

**See exception in G.S. 20-118(c)(1).

(4) The Department of Transportation may establish light-traffic roads and further restrict the axle weight limit on such light-traffic roads lower than the statutory limits. The Department of Transportation shall have authority to designate any highway on the State Highway

System, excluding routes designated by I, U.S. and N.C., as a light-traffic road when in the opinion of the Department of Transportation, such road is inadequate to carry and will be injuriously affected by vehicles using the said road carrying the maximum axle weight. All such roads so designated shall be conspicuously posted as light-traffic roads and the maximum axle weight authorized shall be displayed on proper signs erected thereon.

(c) Exceptions. The following exceptions apply to G.S. 20-118(b) and G.S. 20-118(e).

(1) Two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each without penalty provided the overall distance between the first and last axles of such consecutive sets of tandem axles is 36 feet or more.

(2) When a vehicle is operated in violation of G.S. 20-118(b)(1), G.S. 20-118(b)(2), or G.S. 20-118(b)(3), but the gross weight of the vehicle or combination of vehicles does not exceed that permitted by G.S. 20-118(b)(3), the owner of the vehicle shall be permitted to shift the load within the vehicle, without penalty, from one axle to another to comply with the weight limits in the following cases:

a. Where the single-axle load exceeds the statutory limits, but does not exceed 21,000 pounds.

b. Where the vehicle or combination of vehicles has tandem axles, but the tandem-axle weight does not exceed 36,000 pounds.

(3) When a vehicle is operated in violation of G.S. 20-118(b)(4) the owner of the vehicle shall be permitted, without penalty, to shift the load within the vehicle from one axle to another to comply with the weight limits where the single-axle weight does not exceed the posted limit by 2,500 pounds.

(4) A truck or other motor vehicle shall be exempt from such light-traffic road limitations provided for pursuant to G.S. 20-118(b)(4), when transporting supplies, material or equipment necessary to carry out a farming operation engaged in the production of meats and agricultural crops and livestock or poultry by-products or a business engaged in the harvest or processing of seafood when the destination of such vehicle and load is located solely upon said light-traffic road.

(5) A truck or other motor vehicle shall be exempt from such light-traffic road limitations provided for pursuant to G.S. 20-118(b)(4), when transporting processed and unprocessed seafood from boats or any other point of origin, meats and agricultural crop products originating from a farm, or forest products originating from a farm or from woodlands, or livestock or poultry by-products from point of origin, on a light-traffic road to the nearest State maintained road which is not posted to prohibit the transportation of statutory load limits.

(6) A truck or other motor vehicle shall be exempt from such light-traffic road limitations provided by G.S. 20-118(b)(4) when such motor vehicles are owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and such motor vehicles are used in connection with installation, restoration or emergency maintenance of utility services.

(7) A wrecker may tow a disabled vehicle or combination of vehicles in an emergency to the nearest feasible point for parking or storage without being in violation of G.S. 20-118 provided that the wrecker and towed vehicle or combination of vehicles otherwise meet all requirements of this section.

(d) The Department of Transportation is authorized to abrogate certain exceptions. The exceptions provided for in G.S. 20-118(c)(4) and G.S. 20-118(c)(5) as applied to any light-traffic road may be abrogated by the Department of Transporation upon a determination of the Department of Transportation that undue damage to such light-traffic road is resulting from such vehicles exempted by G.S. 20-118(c)(4) and G.S. 20-118(c)(5). In those cases where the exemption to the light-traffic roads are abrogated by the Department of Transportation, the Department shall post the road to indicate no exemptions.

(e) Penalties.

(1) Except as provided in G.S. 20-118(e)(2), for each violation of the single-axle or tandem-axle weight limits as provided in G.S. 20-118(b)(1), G.S. 20-118(b)(2), and G.S. 20-118(b)(4), the owner or registrant of the vehicle shall pay to the Department of Transportation a civil penalty in accordance with the following schedule: for the first 1,000 pounds or any part thereof, four cents (4¢) per pound; for the next 1,000 pounds or any part thereof, six cents (6¢) per pound; and for each additional pound, ten cents (10¢) per pound. The foregoing schedule of penalties shall apply separately to each weight limit violated. In all cases of violation of the weight limitation, the penalty shall be computed and assessed on each pound of weight in excess of the maximum permitted in G.S. 20-118(b)(1), G.S. 20-118(b)(2), and G.S. 20-118(b)(4).

(2) For each violation of the single-axle or tandem-axle weight limit as provided in G.S. 20-118(b)(1) and G.S. 20-118(b)(2) by vehicles transporting processed and unprocessed seafood from boats or any other point of origin to a processing plant or a point of further distribution, meats and agricultural crop products originating from a farm, or forest products originating from a farm or from woodlands to first market, or livestock or poultry by-products from point of origin to a rendering plant, the owner or registrant of the vehicle shall pay to the Department a civil penalty which equals the amount produced by applying one-half of the rate indicated in the schedule in G.S. 20-118(e)(1) to the weight in pounds on each axle in excess of the maximum weight in pounds allowed under G.S. 20-118 (b)(1) and G.S. 20-118(b)(2).

(3) Except as provided in G.S. 20-118(e)(4), for each violation of any axle-group weight limit as provided in G.S. 20-118(b)(3), the owner or registrant shall pay the Department of Transportation in accordance with the following schedule: for the first 2,000 pounds or any part thereof, two cents (2¢) per pound, for the next 3,000 pounds or any part thereof, four cents (4¢) per pound; for each pound in excess of 5,000 pounds, ten cents (10¢) per pound. The schedule of penalties shall apply separately to each axle-group weight limit violated. The penalty shall be assessed on each pound of weight in excess of the maximum permitted in G.S. 20-118(b)(3).

(4) For each violation of any weight limit as provided in G.S. 20-118(b)(3) by vehicles transporting processed and unprocessed seafood from boats or any other point of origin to a processing plant or a point of further distribution, meats and agricultural crop products originating from a farm or forest products originating from a farm or woodlands to first market, or livestock or poultry by-products from point of origin to a rendering plant, the owner or registrant shall pay to the Department a civil penalty which equals the amount produced by applying one-half of the rate indicated in the schedule in G.S. 20-118(e)(3) to the weight in pounds on each axle group in excess of the maximum weight in pounds allowed under G.S. 20-118(b)(3).

(5) The civil penalties provided in this section shall constitute the sole penalty for violations of G.S. 20-118(b)(1), G.S. 20-118(b)(2), G.S. 20-118(b)(3), G.S. 20-118(b)(4), G.S. 20-118(i), and G.S. 20-118(j), and violators thereof shall not be subject to criminal action except as provided in G.S. 20-96 and as provided in G.S. 136-72 for any vehicle or combination of vehicles exceeding the safe load carrying capacity for bridges on the State Highway System as established and posted by the Department of Transportation.

(f) Passenger buses are required to have a license issued by the Commissioner of Motor Vehicles to operate in North Carolina. For the purpose of issuing a license and determining the maximum weight to be allowed for passenger buses to be operated upon the highways of this State, a certificate showing the weight of such bus when fully equipped for the road shall be furnished the Commissioner of Motor Vehicles. Unless the applicant has a permit issued by the Department of Transportation, no license shall be issued to any passenger bus with two axles having a weight, when fully equipped for operation on the highways, of more than 22,500 pounds, and no license shall be issued for any passenger bus with three axles having a weight, when fully equipped for operation on the highways, of more than 30,000 pounds.

(g) G.S. 20-118 shall not be construed to permit the gross weight of any vehicle or combination in excess of the safe load carrying capacity established by the Department of Transportation on any bridge pursuant to G.S. 136-72.

(h) No tolerance on the single-axle weight, tandem-axle weight, or axle-group weight provided for in G.S. 20-118(b) shall be granted administratively or otherwise.

(i) The Department of Transportation is authorized to permit the operation on the highways of the State of certain vehicles pursuant to this subsection notwithstanding the provisions of G.S. 20-118(b). No vehicle or combination of vehicles in excess of the weight limitation provided by G.S.20-118(b) shall operate on the Interstate highways, unless authorized by agreement with or approval of the United States Department of Transportation.

(1) The Department of Transportation is authorized to enter into an agreement with or obtain the approval of the United States Secretary of Transportation on behalf of the State of North Carolina concerning the control of vehicle weight as provided for in Section 127 of Title 23 of the United States Code. The agreement or approval may provide as set out in G.S. 20-118(i)(2) for the continued operation of certain vehicles with axle and gross weights which could lawfully use the highways of this State on January 1, 1983, and which except for this subsection,

would otherwise be illegal to operate on the highways of the State after October 1, 1983.

(2) The following vehicles which were manufactured and licensed by the Division of Motor Vehicles prior to October 1, 1983, will be permitted to operate pursuant to this subsection:

a. four-axle vehicles with a tri-axle configuration,

b. five-axle vehicles or combination of vehicles designed solely for the transportation of liquids, or tankers designed for bulk hauling,

c. five-axle dump trucks with a tandem-axle configuration,

d. three-axle vehicles with a 'dump' body or ready-mixed concrete units equipped with tandem axles,

e. three-axle and five-axle vehicles engaged in the transportation of construction materials, and

f. vehicles transporting raw and unprocessed agricultural or forest products.

The authorization for vehicles to operate pursuant to G.S. 20-118(i)(2) on Interstate highways shall terminate October 1, 1988.

(3) The authorization, regulations, penalties and termination of authorization as provided for by the agreement with or approval from the United States Secretary of Transportation shall apply to Interstate highways of the State.

(4) Vehicles operating pursuant to G.S. 20-118(i)(2) shall be subject to the penalties for axle weight, tandem-axle weight and gross vehicle weight for exceeding weights permitted by this subsection at the same rate as is provided for by G.S. 20-118(e).

(5) The Department of Transportation is authorized to promulgate rules and regulations to carry out the provisions of G.S. 20-118(i) and to insure compliance with the agreement with or approval of the United States Secretary of Transportation. The Department of Transportation shall take such action in the name of the State of North Carolina as is necessary to comply with the terms of the agreement entered into with or approval of the United States Secretary of Transportation pursuant to this subsection.

(6) Vehicles described in G.S. 20-118(i)(2) shall be permitted to operate on all streets and highways of North Carolina, except Interstate highways until October 1, 1993, subject to light-traffic road limitation, and subject to the penalties for axle weight, tandem-axle weight and gross vehicle weight for exceeding weights permitted by this subsection at the same rate as is provided for by G.S. 20-118(e).

(j)

(1) Vehicles with tandem axles which were manufactured and licensed by the Division of Motor Vehicles prior to October 1, 1983, may continue to operate on the highways of the State with tandem-axle loads of 38,000 pounds in accordance with the provisions of G.S. 20-118(j).

(2) Vehicles operating pursuant to G.S. 20-118(j) are subject to the following limitations, conditions and penalties:

a. the single-axle weight shall not exceed 20,000 pounds; except on light-traffic roads, the single-axle weight shall not exceed the posted limits;

b. the axle group weight limitation shall be the same as is provided in G.S. 20-118(b)(3);

c. the penalties for exceeding the single-axle weight limitation and the axle group weight limitation shall be the same as is provided in G.S. 20-118(e);

d. the penalties for loads on tandem axles exceeding 38,000 pounds shall be at the same rate as is provided in G.S. 20-118(e) for tandem-axle loads, provided the owner or registrant shall be permitted to shift the load to avoid a penalty on the tandem axle if the gross weight of the vehicle is within the legal load limit provided in G.S. 20-118(i)(1) and the tandem-axle weight does not exceed 40,000 pounds.

(3) The exemption authorized by this subsection shall terminate October 1, 1993."

Sec. 2. G.S. 20-116(e), as it appears in the 1981 Cumulative Supplement to Volume 1C of the North Carolina General Statutes, is amended by repealing: (a) all of line 16 following the "storage", all of lines 17 through 22 and the words "erected thereon" in line 23; (b) the words "The operation of any" in line 25, all of lines 26 through 34, and all of line 35 preceding the words "Provided further".

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

S. B. 217 CHAPTER 725

AN ACT TO PERMIT MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM TO PURCHASE CREDITABLE SERVICE FOR TEMPORARY STATE EMPLOYMENT BY PAYING AN AMOUNT EQUAL TO THE FULL ACTUARIAL LIABILITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-4 is amended by adding a new subsection designated as "(q)" to read:

"(q) Credit at full cost for temporary State employment. In addition to the provisions of subsection (p) above, any member may purchase creditable service for State employment when classified as a temporary teacher or employee subject to the conditions that the:

(1) Member became a contributing member or resumed contributing membership immediately subsequent to termination of temporary employment, with the same employer;

(2) Member's temporary employment met all other requirements of G.S. 135-1(10) or (25);

(3) Member has completed 10 years or more of membership service;

(4) Member acquires from the employer such certifications of temporary employment as are required by the Board of Trustees; and

(5) Member makes a lump sum payment into the Annuity Savings Fund equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the Retirement System's liabilities and shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance, as determined by the Board of

Trustees upon the advice of the actuary, plus an administrative expense fee to be determined by the Board of Trustees."

Sec. 2. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

S. B. 429

CHAPTER 726

AN ACT TO PROVIDE PAYMENT FOR ATTORNEYS OR GUARDIANS AD LITEM FOR CERTAIN PERSONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 7A of the General Statutes is amended by adding four new sections to read:

"§ 7A-450.1. *Responsibility for payment by certain fiduciaries.*—It is the intent of the General Assembly that, whenever possible, if an attorney or guardian *ad litem* is appointed pursuant to G.S. 7A-451 for a person who is less than 18 years old or who is at least 18 years old but remains dependent on and domiciled with a parent or guardian, the parent, guardian, or any trustee in possession of funds or property for the benefit the person, shall reimburse the State for the attorney or guardian *ad litem* fees, pursuant to the procedures established in G.S. 7A-450.2 and G.S. 7A-450.3. This section shall not apply in any case in which the person for whom an attorney or guardian *ad litem* is appointed prevails.

"§ 7A-450.2. *Determination of fiduciaries at indigency determination; summons; service of process.*—At the same time as a person who is less than 18 years old or who is at least 18 years old but remains dependent on and domiciled with a parent or guardian is determined to be indigent, and has an attorney or guardian *ad litem* appointed pursuant to G.S. 7A-451, the court shall determine the identity and address of the parent, guardian or any trustee in possession of funds or property for the benefit of the person. The court shall issue a summons to the parent, guardian or trustee to be present at the dispositional hearing or the sentencing hearing or other appropriate hearing and to be a party to these hearings for the purpose of being determined responsible for reimbursing the State for the person's attorney or guardian *ad litem* fees, or to show cause why he should not be held responsible.

Both the issuance of the summons and the service of process shall be pursuant to G.S. 1A-1, Rule 4.

"§ 7A-450.3. *Determination of responsibility at hearing.*—At the dispositional, sentencing or other hearing of the person who is less than 18 years old or who is at least 18 years old but remains dependent on and domiciled with a parent or guardian, the court shall make a determination whether the parent, guardian or trustee should be held responsible for reimbursing the State for the person's attorney or guardian *ad litem* fees. This determination shall include the financial situation of the parent, guardian or trustee, the relationship of responsibility the parent, guardian or trustee bears to the person and any showings by the parent, guardian or trustee that the person is emancipated or not dependent. The test of the party's financial ability to pay is the test applied to appointment of an attorney in cases of indigency. Any provision of any deed, trust or other writing, which, if enforced, would defeat

the intent or purpose of this section is contrary to the public policy of this State and is void insofar as it may apply to prohibit reimbursement to the State.

If the court determines that the parent, guardian or trustee is responsible for reimbursing the State for the attorney or guardian *ad litem* fees, the court shall so order. If the party does not comply with the order within 90 days, the court shall file a judgment against him for the amount due the State.

"§ 7A-450.4. *Exemptions.*—G.S. 7A-450.1, G.S. 7A-450.2 and G.S. 7A-450.3 do not authorize the court to require the Department of Human Resources or any county Department of Social Services to reimburse the State for fees."

Sec. 2. G.S. 7A-588 is amended in the first sentence by inserting between the words "Article" and "shall" the phrase "or pursuant to any other provision of the Juvenile Code".

Sec. 3. G.S. 7A-588 is further amended by deleting the second and third sentences and by substituting the following to read: "The judge may require payment of the attorney or guardian *ad litem* fee from a person other than the juvenile as provided in G.S. 7A-450.1, G.S. 7A-450.2 and G.S. 7A-450.3. In no event shall the parent or guardian be required to pay the fees for an attorney or guardian *ad litem* in an abuse or neglect proceeding unless abuse or neglect has been found to have occurred."

Sec. 4. This act shall become effective October 1, 1983, and applies to appointments of attorneys or guardians *ad litem* on or after this date.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

S. B. 504 CHAPTER 727

AN ACT TO CLARIFY THE VENUE FOR THE TRIAL OF FELONY OFFENSES COMMITTED WITHIN THE CORPORATE LIMITS OF A MUNICIPALITY WHICH LIES WITHIN MORE THAN ONE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-131(c) is amended to read:

"(c) Except as otherwise provided in this subsection, venue for probable cause hearings and trial proceedings in cases within the original jurisdiction of the superior court lies in the county where the charged offense occurred. If the alleged offense is committed within the corporate limits of a municipality which is the seat of superior court and is located in more than one county, venue lies in the superior court which sits within that municipality, but upon timely objection of the defendant or the district attorney in the county in which the alleged offense occurred the case must be transferred to the county in which the alleged offense occurred."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

H. B. 1306 CHAPTER 728

AN ACT TO PERMIT PAYMENT OF DIVIDENDS FOR EMPLOYER GROUPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-93(2) is hereby amended by the addition of a new sentence to read as follows:

"Payment of dividends to the members of any group comprised of two or more employers which agree to pool their liabilities under this Article shall not be contingent upon the maintenance or continuance of membership in such pools."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1983.

S. B. 628 CHAPTER 729

AN ACT TO GIVE THE STATE BOARD OF ELECTIONS A LONGER PERIOD OF TIME TO DETERMINE NOMINEES FOR THE PRESIDENTIAL PRIMARY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-213.4 is amended by rewriting the first sentence to read: "The State Board of Elections shall convene in Raleigh on the seventy-fifth (75th) day preceding the presidential preference primary election."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of July, 1983.

H. B. 776 CHAPTER 730

AN ACT TO MAKE MISCELLANEOUS CHANGES IN LOCAL LAWS AFFECTING ORANGE COUNTY.

The General Assembly of North Carolina enacts:

Sec. 1. The Charter of the Town of Carrboro, being Chapter 660, Session Laws of 1979, is amended by adding a new section to read:

"Sec. 5.43. Towing from Carrboro Farm and Craft Market. Notwithstanding the provisions of G.S. 160A-303(b)(2), the Town of Carrboro may, by ordinance, define an abandoned vehicle to include any motor vehicle that is left on property owned, leased or operated by the town contrary to an ordinance prohibiting parking thereon during specified times or in excess of specified durations, and may enforce such ordinance by towing under any ordinance adopted pursuant to the authorization contained in G.S. 160A-303."

Sec. 2. The Charter of the Town of Carrboro, being Chapter 660, Session Laws of 1979, is amended by adding a new section to read:

"Sec. 5.89. Smoke Detectors. Notwithstanding any provision of the North Carolina State Building Code or any general or local law to the contrary, the Town of Carrboro may provide, by ordinance, that the owners of all existing rental residential dwelling units whose units are not required to have smoke detectors under the State Building Code shall install battery operated smoke

detectors in such units within 90 days after the effective date of such ordinance."

Sec. 3. Section 5.84 of the Charter of the Town of Carrboro, being Chapter 660, Session Laws of 1969 as rewritten by Section 3 of Chapter 753, Session Laws of 1969 is rewritten to read:

"Sec. 5.84. Zoning Board of Adjustment. The board of aldermen may create a board of adjustment in accordance with the provisions of Article 19 of Chapter 160A of the General Statutes. Such board shall be subject to all the provisions of general law except that the board of aldermen may authorize the board of adjustment to decide any matter before it either (i) upon a vote of a majority of the members present at a meeting and not excused from voting, so long as a quorum consisting of at least six members is present, or (ii) upon a vote of a four-fifths majority of the members present at a meeting and not excused from voting, so long as a quorum consisting of at least six members is present."

Sec. 4. No assessment for the paving of streets in the Town of Carrboro shall be deemed invalid by reason of the failure of the Town of Carrboro to comply with the provisions of Section 6.02(c) of Chapter 660 of the Session Laws of 1969 as amended by Chapter 753 of the Session Laws of 1979. This validation shall apply only to paving completed on or before the effective date of this act.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of July, 1983.

H. B. 1003 CHAPTER 731

AN ACT TO PROVIDE THAT IF PROPERTY OWNED BY A LOCAL BOARD OF EDUCATION IS NO LONGER SUITABLE OR NECESSARY FOR PUBLIC SCHOOL PURPOSES, THE BOARD OF COUNTY COMMISSIONERS HAS THE FIRST OPPORTUNITY TO PURCHASE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-518(a) is amended by inserting between the first and second sentences the following:

"Provided, when any real property to which the board holds title is no longer suitable or necessary for public school purposes, the board of county commissioners for the county in which the property is located shall be afforded the first opportunity to obtain the property. The board of education shall offer the property to the board of commissioners at a fair market price or at a price negotiated between the two boards. If the board of commissioners does not choose to obtain the property as offered, the board of education may dispose of such property according to the procedure as herein provided. Provided that no State or federal regulations would prohibit such action."

Sec. 2. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 12th day of July, 1983.

H. B. 1266 CHAPTER 732

AN ACT TO EXEMPT CERTAIN TRAILER CONVERTERS FROM THE MOTOR VEHICLE REGISTRATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-51 is amended by adding a new subdivision to read:

"(11) Devices generally called converter gear or dollies consisting of a tongue attached to either a single or tandem axle upon which is mounted a fifth wheel and which is used to convert a semitrailer to a full trailer for the purpose of being drawn behind a truck tractor and semitrailer."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of July, 1983.

H. B. 1295 CHAPTER 733

AN ACT TO PROVIDE FOR A SUNSET ON BOARDS OR COMMISSIONS CREATED BY EXECUTIVE ORDER OF THE GOVERNOR.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 147 of the General Statutes is amended by adding a new section to read:

"§ 147-16.2. *Continuing effect of executive order.*—(a) Any executive order of the Governor which creates a board, committee, council, or commission expires two years after the effective date of the executive order, unless the Governor specifies an expiration date in the order; provided however that any such executive order which was in effect on July 1, 1983, expires on June 30, 1985, unless the Governor specified a different expiration date in any such order.

(b) The Governor may extend any such executive order for additional periods of up to two years by doing so in writing before the expiration of the order."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of July, 1983.

H. B. 1388 CHAPTER 734

AN ACT TO PERMIT THE COUNTY OF PERSON TO ENGAGE IN CERTAIN COMMUNITY DEVELOPMENT ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 566 of the Session Laws of 1983 is rewritten to read:

"Section 1. The County of Person may expend community development funds to make grants or loans to businesses in order to provide and protect employment opportunities for persons of low income. Such a grant or loan may be made to provide money for eligible activities under the Federal Community Development Block Grant Program."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of July, 1983.

S. B. 663 CHAPTER 735

AN ACT TO CLARIFY THE CONDEMNATION POWERS OF COUNTY WATER AND SEWER DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162A-89.1 is rewritten to read as follows:

"§ 162A-89.1. *Eminent domain power authorized.*—Notwithstanding the provisions of G.S. 40A-1, a county water and sewer district shall have the power of eminent domain, to be exercised in accordance with Article 9 of Chapter 136 of the General Statutes, over the acquisition of any improved or unimproved lands or rights in land, within or without the district."

Sec. 2. This act is effective upon ratification. However, a county water and sewer district may not commence an action pursuant to this act after June 30, 1985.

In the General Assembly read three times and ratified, this the 13th day of July, 1983.

S. B. 671 CHAPTER 736

AN ACT TO ALLOW CERTAIN ADDITIONAL DEPUTY SHERIFFS IN CARTERET COUNTY TO PURCHASE AUTOMOBILES FROM STATE SURPLUS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of Section 1 of Chapter 505, Session Laws of 1981, as amended by Chapter 80, Session Laws of 1983, is amended by deleting the words ", full time salaried" and is further amended in the last sentence of Section 1 by deleting the word "and" the first time it appears and inserting in lieu thereof "based on the sheriff's written statement that the".

Sec. 2. This act applies to Carteret County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of July, 1983.

H. B. 1344 CHAPTER 737

AN ACT TO AMEND QUALIFICATIONS FOR LICENSURE FOR NURSING HOME ADMINISTRATORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-278(1) is rewritten to read:

"(1) A license as a nursing home administrator shall be issued to any person upon the Board's determination that:

a. He is at least 18 years of age, of good moral character and of sound physical and mental health; and

b. He has successfully completed the equivalent of two years of college level study (60 semester hours or 96 quarter hours) from an accredited community college, college or university prior to application for licensure; or

has completed a combination of education and experience, acceptable under rules promulgated by the Board, prior to application for licensure.

Under this provision, two years of supervisory experience in a nursing home shall be equated to one year of college study; and

c. He has satisfactorily completed a course prescribed by the Board, which course contains instruction on the services provided by nursing homes, laws governing nursing homes, protection of patient interests and nursing home administration; and

d. He has successfully completed his training period as an administrator-in-training as prescribed by the Board; and

e. He has passed examinations administered by the Board and designed to test for competence in the subject matters referred to in paragraph c of this subdivision."

Sec. 2. This act is effective upon ratification and applies to licenses applied for on or after this date.

In the General Assembly read three times and ratified, this the 13th day of July, 1983.

H. B. 1394 CHAPTER 738

AN ACT TO VALIDATE CERTAIN FORECLOSURE SALES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-21.46 as enacted by Section 1 of Chapter 582 of the 1983 Session Laws is amended by deleting "May 1, 1983" and substituting "June 1, 1983".

Sec. 2. This act is effective upon ratification and shall not affect any pending litigation.

In the General Assembly read three times and ratified, this the 13th day of July, 1983.

S. B. 315 CHAPTER 739

AN ACT REGARDING INSPECTIONS OF FIRE-DAMAGED PROPERTY WITH AN INSPECTION WARRANT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-27.2(d)(1) is amended by deleting the word "It" and substituting the phrase "Except as provided in subsection (e), it".

Sec. 2. G.S. 15-27.2(e) is amended by adding a new sentence between the first and second sentences to read:

"If the warrant, however, was procured pursuant to an investigation authorized by G.S. 69-1, the warrant may be executed at any hour, is valid for 48 hours after its issuance, and must be returned without unnecessary delay after its execution or after the expiration of the 48 hour period if it is not executed."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of July, 1983.

H. B. 315 CHAPTER 740

AN ACT TO STRENGTHEN LAWS REGULATING SALES OF ALCOHOLIC BEVERAGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-302(d) is rewritten to read:

"(d) Defense. It shall be a defense to a violation of subsection (a) of this section if the seller:

(1) Shows that the purchaser produced a driver's license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport, showing his age to be at least the required age for purchase and bearing a physical description of the person named on the card reasonably describing the purchaser; or

(2) produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age."

Sec. 2. G.S. 18B-302 is amended in the catchline by substituting the words "underage persons" for the word "minors".

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 567 CHAPTER 741

AN ACT TO AMEND THE STATUTES 14-107 FOR WORTHLESS CHECKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-107(5) is amended by inserting "shall consider and" between the words "judge" and "may".

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 864 CHAPTER 742

AN ACT TO MAKE STATEWIDE CHAPTER 85C OF THE GENERAL STATUTES RELATING TO BAIL BONDSMEN BY REPEALING THE EXEMPTIONS FOR NEW HANOVER AND ROBESON COUNTIES, AND TO REPEAL LOCAL ACTS RELATING TO THE NEW HANOVER COUNTY LAW LIBRARY.

The General Assembly of North Carolina enacts:

Section 1. The following laws are repealed:

(1) Chapter 673, Session Laws of 1945

(2) Chapter 135, Session Laws of 1953

(3) Chapter 619, Session Laws of 1961

(4) Chapter 620, Session Laws of 1961

(5) Chapter 868, Session Laws of 1973.

Sec. 2. The following laws are repealed:

(1) Chapters 316 and 995, Session Laws of 1947

(2) Chapter 221, Session Laws of 1957

(3) Chapter 85, Session Laws of 1961

(4) Chapter 217, Session Laws of 1969
(5) Section 2 of Chapter 327, Session Laws of 1973
(6) Chapter 569, Session Laws of 1979.

Sec. 3. G.S. 85C-41 is repealed.

Sec. 4. This act shall become effective September 1, 1983, but shall not affect any bonds outstanding on that date.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 1277 CHAPTER 743

AN ACT TO DENY AUTHORITY TO CASWELL BEACH TO EXERCISE JURISDICTION UNDER ARTICLE 19 OF CHAPTER 160A OF THE GENERAL STATUTES OVER FORT CASWELL.

Whereas, the North Carolina Baptist Assembly, known as Fort Caswell, is owned and operated by the North Carolina Baptist State Convention; and

Whereas, more than 3,000 churches throughout the State are members of the North Carolina Baptist State Convention; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Town of Caswell Beach in Brunswick County shall have no authority to exercise jurisdiction under Article 19 of Chapter 160A of the General Statutes over any part of the property of the North Carolina Baptist State Convention known as Fort Caswell, and Brunswick County shall retain its jurisdiction over that area under Article 18 of Chapter 153A of the General Statutes and Article 19 of Chapter 160A of the General Statutes. The general description of Fort Caswell reads as follows: the Baptist Assembly surrounded by the eastern boundary of Caswell Beach on the west, the waters of the Atlantic Ocean to the south, the Cape Fear River to the east, and the Elizabeth River and its marshes on the north. Provided, these restrictions as to exercise of jurisdiction shall apply only for so long as the property is owned and operated by the North Carolina Baptist State Convention exclusively for the North Carolina Baptist Assembly, provided further that the Town of Caswell Beach may adopt ordinances concerning Fort Caswell under Article 19 of Chapter 160A of the General Statutes, but such ordinances shall not become effective until the town obtains jurisdiction by operation of the previous proviso.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 1409 CHAPTER 744

AN ACT TO AMEND CHAPTER 600 OF THE SESSION LAWS OF 1983 CONCERNING THE DATE OF THE SPECIAL ELECTION TO INCORPORATE THE TOWN OF LYNN.

The General Assembly of North Carolina enacts:

Section 1. Section 9.5 of Chapter 600 of the Session Laws of 1983 is hereby amended by changing the reference to "August 23," in line 3 to read "September 27,".

Sec. 1.1. Chapter 600 of the Session Laws of 1983 is amended by adding a new section to read:

"Sec. 7.1. Notwithstanding G.S. 163-294.2(c), candidates may file their notices of candidacy with the Polk County Board of Elections for the 1983 municipal election at any time after 12:00 noon on the sixth Friday and before 12:00 noon on the fifth Friday before the municipal election."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 642 CHAPTER 745

AN ACT TO CLARIFY STATE RESPONSIBILITY FOR JAILER TRAINING AND CERTIFICATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 17E-2(c) as the same is found in Chapter 558 of the 1983 Session Laws is amended at the end of the first sentence of that subsection following the word "sheriff" by adding the words "or jailers." thereto.

Sec. 2. G.S. 17C-2 is amended by rewriting subsections "(b)" and "(c)" of that section as follows:

"(b) 'Criminal justice agencies' means the State and local law enforcement agencies, the State correctional agencies, other correctional agencies maintained by local governments, and the juvenile justice agencies, but shall not include deputy sheriffs, special deputy sheriffs, jailers, or other sheriffs' department personnel governed by the provisions of Chapter 17E of these General Statutes;

(c) 'Criminal justice officer(s)' means and incorporates the administrative and subordinate personnel of all the departments, agencies, units or entities comprising the 'criminal justice agencies,' as defined in subsection (a), who are sworn law enforcement officers, both State and local, with the power of arrest; State correctional officers; State probation and parole officers; officers, supervisory and administrative personnel of local confinement facilities; or youth correctional officers."

Sec. 3. G.S. 17C-10(a) is amended by inserting in the first sentence between the word "appointment" and the phrase "prior to March 15, 1973" the phrase "prior to September 1, 1983, and is an officer, supervisor or administrator of a local confinement facility;".

Sec. 4. G.S. 153A-216(4) is rewritten to read:

"(4) Adequate qualifications and training of the personnel of local confinement facilities are essential to improving the quality of these facilities. The State shall establish entry level employment standards for jailers and supervisory and administrative personnel of local confinement facilities to include training as a condition of employment in a local confinement facility pursuant to the provisions of Chapter 17C and Chapter 17E and the rules promulgated thereunder."

Sec. 5. G.S. 153A-220(5) is repealed.

Sec. 6. G.S. 153A-221(b) is amended by rewriting the second sentence to read:

"The Secretary shall also consult with interested State departments and agencies, including the Department of Correction, the Department of Human Resources, the Department of Insurance, and the North Carolina Criminal

Justice Education and Training Standards Commission, and the North Carolina Sheriffs' Education and Training Standards Commission."

Sec. 7. G.S. 153A-222 is amended by rewriting the second sentence to read:

"The purpose of the inspections is to investigate the conditions of confinement, the treatment of prisoners, the maintenance of entry level employment standards for jailers and supervisory and administrative personnel of local confinement facilities as provided for in G.S. 153A-216(4), and to determine whether the facilities meet the minimum standards published pursuant to G.S. 153A-221."

Sec. 8. G.S. 153A-223 is amended by inserting in the first sentence between the phrase "discloses that" and the phrase "a local" the phrase "the jailers and supervisory and administrative personnel of a local confinement facility do not meet the entry level employment standards established pursuant to Chapter 17C or Chapter 17E or that".

Sec. 9. G.S. 153A-227 is repealed.

Sec. 10. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 684 CHAPTER 746

AN ACT TO ESTABLISH THE CRIME OF INVOLUNTARY SERVITUDE.

The General Assembly of North Carolina enacts:

Section 1. Article 10 of General Statutes Chapter 14 is amended by adding a new section to read:

"§ 14-43.2. *Involuntary servitude.*—(a) As used in this section, 'involuntary servitude' means the unlawful holding of a person against his will:

(1) for the performance of labor, whether or not for compensation, or whether or not for the satisfaction of a debt, and

(2) by coercion or intimidation using violence or the threat of violence, or by any other means of coercion or intimidation.

(b) It is unlawful to knowingly and willfully:

(1) hold another in involuntary servitude, or

(2) entice, persuade or induce another to go to another place with the intent that the other be held in involuntary servitude.

A person violating this subsection shall be guilty of a Class I felony.

(c) Nothing in this section shall be construed to affect the laws governing the relationship between an unemancipated minor and his parents or legal guardian.

(d) If any person reports a violation of subsection (b) of this section, which violation arises out of any contract for labor, to any party to the contract, the party shall immediately report the violation to the sheriff of the county in which the violation is alleged to have occurred, for appropriate action. A person violating this subsection shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned, or both, in the discretion of the Court."

Sec. 2. G.S. 14-39(a) is amended by adding a new subdivision to read:

"(4) holding such other person in involuntary servitude in violation of G.S. 14-43.2."

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 1387 CHAPTER 747

AN ACT TO PREVENT DRIFT HUNTING ON SWIFT CREEK IN EDGECOMBE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful for any person to hunt, take or transport game birds or animals except migratory waterfowl from or with the aid of any boat or other floating device on that portion of Swift Creek which lies within the confines of Edgecombe County.

Sec. 2. Violation of this act is a misdemeanor punishable in the discretion of the court.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 1402 CHAPTER 748

AN ACT TO ALLOW THE CITY OF WILSON TO SELL INDUSTRIAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 12 of Chapter 160A of the General Statutes, the City of Wilson is hereby authorized to sell at private sale, and at a price that would not reflect the improvements placed in the property through the use of federal funds, real property developed with Economic Development Administration Grant Funds and purchased with nontax revenue.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

S. B. 475 CHAPTER 749

AN ACT TO CLARIFY WHAT INFORMATION MAY BE USED FOR PROOF OF LOSS UNDER LIFE INSURANCE POLICIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-205.3(a) is amended by adding the following sentence: "As used in this subsection, the phrase 'satisfactory proof of loss because of the death' includes, but is not limited to, a certified copy of the death certificate; or a written statement by the attending physician at the time of death that contains the following information: (i) the name and address of the physician, who must be duly licensed to practice medicine in the United States; (ii) the name of the deceased; (iii) the date, time, and place of the death; and (iv) the immediate cause of the death."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

S. B. 567

CHAPTER 750

AN ACT TO AMEND ARTICLE 10 OF CHAPTER 115C OF THE GENERAL STATUTES PERTAINING TO VOCATIONAL EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-154(10) is amended by deleting the language ", for three years."

Sec. 2. G.S. 115C-159 is amended by inserting before the last sentence: "Such activities are a part of the instructional activities in the vocational education programs and are not to be construed as engaging in business."

Sec. 3. G.S. 115C-165 is amended to read:

"§ 115C-165. *Advisory committee on production work activities.*— The board of education of each local school administrative unit in which the proposed production work activities are to be undertaken shall appoint appropriate advisory committees of no less than three persons residing within that administrative unit for each program (or in the case of Trade and Industrial Education, for each specialty) for the purpose of reviewing and making recommendations on such production work activities. Respective advisory committee members shall be lay persons who are actively involved in the appropriate business or trade. No production work activity shall be undertaken without the involvement of the appropriate advisory committee."

Sec. 4. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

S. B. 621

CHAPTER 751

AN ACT TO AMEND CHAPTER 85B, RELATING TO AUCTIONS AND AUCTIONEERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 85B-1 is amended by adding a new subdivision (3) to read:

"(3) 'Owner' means the bona fide owner of the property being offered for sale; in the case of corporations, 'owner' means an officer or director of a corporation that owns the property being offered for sale and that is qualified to do business in the State of North Carolina."

Sec. 2. G.S. 85B-2(1) is rewritten to read:

"(1) Sales at auction conducted by the owner of all of the goods or real estate being offered, or an attorney representing the owner, unless the owner's regular course of business includes engaging in the sale of goods or real estate by means of auction or unless the owner originally acquired the goods for the purposes of resale at auction;".

Sec. 3. G.S. 85B-2(7) is rewritten to read:

"(7) Sale at auction of automobiles conducted under the provisions of G.S. 20-77, or sale at auction of motor vehicles by a motor vehicle dealer licensed under Article 12, Chapter 20 of the General Statutes;".

Sec. 4. G.S. 85B-3(a) is amended by adding a new sentence at the end to read: "no member shall serve more than two complete consecutive terms."

Sec. 5. G.S. 85B-3(b) is rewritten to read:

"(b) At least three members of the Commission shall be experienced auctioneers who are licensed under this Chapter. One member shall be a person who shall represent the public at large and shall not be licensed under this Chapter. The Governor shall appoint a public member to fill the first vacancy on the Commission after July 1, 1983."

Sec. 6. G.S. 85B-4(b)(2) is repealed.

Sec. 7. G.S. 85B-4 is amended by renumbering subsection (c) as (c1) and adding a new subsection to read:

"(c2) Each apprentice auctioneer application and license shall name a licensed auctioneer to serve as the supervisor of the apprentice. No apprentice auctioneer may enter into an agreement to conduct an auction, or conduct an auction, without the express approval of his supervisor. The supervisor shall regularly review the records his apprentice is required to maintain under G.S. 85B-7 and see that they are accurate and current."

Sec. 8. The second sentence of G.S. 85B-4(e) is amended by deleting "90 days" and substituting "12 months".

Sec. 9. The first sentence of G.S. 85B-5 is rewritten to read:

"Any person who holds a valid auctioneer license in another state may apply for and be granted a North Carolina license if the state in which he is licensed has standards which are acceptable to the Commission but are not more lenient than those required by this Chapter."

Sec. 10. The first sentence of the second paragraph of G.S. 85B-5 is rewritten to read: "An applicant under this section shall file the bond required by G.S. 85B-4."

Sec. 11. The third paragraph of G.S. 85B-5 is repealed.

Sec. 12. The second paragraph of G.S. 85B-6 is rewritten to read:

"No local government or agency of local government may charge any fees or require any licenses for auctioneers, apprentice auctioneers, or auctioneer businesses in addition to those set out in this Chapter."

Sec. 13. This act shall become effective August 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 1353 CHAPTER 752

AN ACT TO AMEND G.S. 115C-72 RELATING TO THE CONSOLIDATION OF DISTRICTS AND DISCONTINUANCE OF SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-72 is rewritten to read:

"§ 115C-72. *Consolidation of districts and discontinuance of schools.*—(a) Local boards of education shall have the power and authority to close or consolidate schools located in the same district, and with the approval of the State Board of Education, to consolidate school districts or other school areas over which the board has full control, whenever and wherever in its judgement the closing or consolidation will better serve the educational interest of the local school administrative unit or any part of it.

In determining whether two or more public schools shall be consolidated, or in determining whether or not a school shall be closed and the pupils

transferred therefrom, local boards of education of the several counties shall observe and be bound by the following rules:

(1) In any question involving the closing or consolidation of any public school, the local board of education of the school administrative unit in which such school is located shall cause a thorough study of such school to be made, having in mind primarily the welfare of the students to be affected by a proposed closing or consolidation and including in such study, among other factors, geographic conditions, anticipated increase or decrease in school enrollment, the inconvenience or hardship that might result to the pupils to be affected by such closing or consolidation, the cost of providing additional school facilities in the event of such closing or consolidation, and such other factors as the board shall consider germane. Before the entry of any order of closing or consolidation, the local board of education shall provide for a public hearing in regard to such proposed closing or consolidation, at which hearing the public shall be afforded an opportunity to express their views. Upon the basis of the study so made and after such hearing, said board may, in the exercise of its discretion, approve the closing or consolidation proposed.

(2) The provisions of this section shall not deprive any local board of education of the authority to assign or enroll any and all pupils in schools in accordance with the provisions of G.S. 115C-366(b) and 115C-367 to 115C-370.

(b) This section does not govern merger of a city school administrative unit with another school administrative unit. Such merger is governed by G.S. 115C-67."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 1374 CHAPTER 753

AN ACT TO AMEND THE PRIMA FACIE EVIDENCE RULE FOR ENFORCEMENT OF PARKING REGULATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-162.1 is amended by designating the present section as subsection (a) and adding a new subsection (b) to read:

"(b) The *prima facie* rule of evidence established by subsection (a) shall not apply to the registered owner of a leased or rented vehicle parked in violation of law when said owner can furnish sworn evidence that the vehicle was, at the time of the parking violation, leased or rented, to another person. In such instances, the owner of the vehicle shall, within a reasonable time after notification of the parking violation, furnish to the courts the name and address of the person or company who leased or rented the vehicle."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 1384 CHAPTER 754

AN ACT TO RESTRICT THE USE OF THE LIST OF LICENSED DRIVERS TO JURY SELECTION PURPOSES ONLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-43.4 is hereby amended by adding at the end thereof a new sentence to read:

"The list so provided shall be used solely for jury selection purposes and no other."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

S. B. 553 CHAPTER 755

AN ACT SETTING STANDARDS FOR QUALIFICATION, TRAINING AND EXPERIENCE FOR PERSONS SEEKING TO REPRESENT THEMSELVES TO THE PUBLIC AS REGISTERED PRACTICING COUNSELORS: CREATING A STATE BOARD OF EXAMINERS FOR REGISTERED PRACTICING COUNSELORS: DEFINING THE FUNCTIONS AND DUTIES OF THAT BOARD: AND PROVIDING FOR PENALTIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by inserting a new Article to read:

"ARTICLE 22.

"Registered Practicing Counselors.

"§ 90-324. *Declaration of policy.*—It is declared to be the public policy of this State that the activities of persons using the title 'Registered Practicing Counselor' be regulated to insure the protection of the public health, safety and welfare.

"§ 90-325. *Definitions; practice of law; practice of marriage and family therapy.*—(a) Definitions. As used in this Article certain terms are defined as follows:

(1) A 'counselor' is a person engaged in the practice of counseling who is not a Registered Practicing Counselor as defined in this Article.

(2) A 'Registered Practicing Counselor' is a person engaged in the practice of counseling who holds a certificate as a Registered Practicing Counselor issued to him under the provisions of this Article.

(3) The 'practice of counseling' means holding oneself out to the public as a practicing counselor offering counseling services which include, but are not limited to the following:

a. Counseling. Assisting an individual, through the counseling relationship, to develop understanding of personal problems, to define goals and to plan action reflecting his or her interests, abilities, aptitudes and needs as these are related to personal-social concerns, education progress and occupations and careers.

b. Appraisal Activities. Administering and interpreting tests for assessment of personal characteristics.

c. Consulting. Interpreting scientific data and providing guidance and personnel services to individuals, groups or organizations.

d. Referral Activities. Identifying problems requiring referral to other specialists.

e. Research Activities. Designing, conducting and interpreting research with human subjects.

(b) Practice of Law. Nothing in this Article shall be construed as authorizing Registered Practicing Counselors to engage in the practice of law, and such person shall not engage in the practice of law unless duly licensed so to do.

(c) Practice of Marriage and Family Therapy, Psychology or Social Work. No person hereafter registered as a Practicing Counselor under the provisions of this Article shall be allowed to hold himself out to the public as having specialized training or experience as an expert or specializing in the field of Marriage and Family Therapy, Psychology or Social Work unless specifically authorized by other provisions of law.

"§ 90-326. *Unlawful use of title 'Registered Practicing Counselor'.*—It shall be unlawful for any person who has not received a certificate of qualification as a Registered Practicing Counselor to assume or use such a title, or to use any words or other means of identification indicating that the person has been certified as a Registered Practicing Counselor, but such person may use the term 'counselor' in connection with his name relating to his services as a counselor.

"§ 90-327. *Use of title by firm.*—It shall be unlawful for any firm, partnership, corporation, association or other business or professional entity to assume or use the title of Registered Practicing Counselor, unless each of the members of such firm, partnership or association first shall have received a certificate of qualification from the State Board of Registered Practicing Counselors.

"§ 90-328. *North Carolina Board of Registered Practicing Counselors; appointments; terms; composition.*—(a) For the purpose of carrying out the provisions of this Article, there is hereby created the North Carolina Board of Registered Practicing Counselors which shall consist of seven members appointed by the Governor in the manner hereinafter prescribed. The Governor may remove any member of the Board for neglect of duty or malfeasance or conviction of a felony or other crime of moral turpitude, but for no other reason.

(b) At least five members of the Board shall be Registered Practicing Counselors except that initial appointees shall be persons who meet the educational and experience requirements for registration as Registered Practicing Counselors under the provisions of this Article; and two members shall be appointed from the public at large. Composition of the Board as to the race and sex of its members shall reflect the composition of the population of the State of North Carolina.

(c) At all times the Board shall include at least two counselors primarily engaged in counselor education, at least one counselor primarily engaged in the public sector, and at least two counselors primarily engaged in the private sector.

(d) All members of the Board shall be residents of the State of North Carolina, and after the establishment of the initial Board, all members, with the exception of the public members shall be registered by the Board under the provisions of this Article. Professional members of the Board must be actively

engaged in the practice of counseling or in the education and training of students in counseling, and have been for at least three years prior to their appointment to the Board. Such activity during the two years preceding the appointment shall have occurred primarily in this State.

(e) The term of office of each member of the Board shall be three years; provided, however, that of the members first appointed, three shall be appointed for terms of one year, two for terms of two years, and two for terms of three years. No member shall serve more than two consecutive three-year terms.

(f) Each term of service on the Board shall expire on the 30th day of June of the year in which the term expires. As the term of a member expires, the Governor shall make the appointment for a full term, or, if a vacancy occurs for any other reason, for the remainder of the unexpired term.

(g) Members of the Board shall receive compensation for their services and reimbursement for expenses incurred in the performance of duties required by this Article, at the rates prescribed in G.S. 93B-5.

(h) The Board may employ, subject to the provisions of Chapter 126 of the General Statutes, the necessary personnel for the performance of its functions, and fix their compensation within the limits of funds available to the Board.

"§ 90-329. *Functions and duties of the Board.*—(a) The Board shall administer and enforce the provisions of this Article.

(b) The Board shall elect from its membership, a chairperson, a vice-chairperson, and secretary-treasurer, and adopt rules to govern its proceedings. A majority of the membership shall constitute a quorum for all Board meetings.

(c) The Board shall examine and pass on the qualifications of all applicants for certificates under this Article, and shall issue a certificate to each successful applicant therefor.

(d) The Board may adopt a seal which may be affixed to all certificates issued by the Board.

(e) The Board may authorize expenditures deemed necessary to carry out the provisions of this Article from the fees which it collects, but in no event shall expenditures exceed the revenues of the Board during any fiscal year. No State appropriations shall be subject to the administration of the Board.

(f) The Board shall establish and receive fees not to exceed seventy-five dollars ($75.00) for initial or renewal application, not to exceed seventy-five dollars ($75.00) for examination, and not to exceed fifteen dollars ($15.00) for late renewal; maintain Board accounts of all receipts, and make expenditures from Board receipts for any purpose which is reasonable and necessary for the proper performance of its duties under this Article.

(g) The Board shall have the power to establish or approve study or training courses and to establish reasonable standards for registration and certificate renewal, including but not limited to the power to adopt or use examination materials and accreditation standards of any recognized counselor accrediting agency and the power to establish reasonable standards for continuing counselor education; provided that for certificate renewal no examination shall be required.

(h) Subject to the provisions of Chapter 150A of the General Statutes, the Board shall have the power to adopt, amend, or repeal rules and regulations to carry out the purposes of this Article, including but not limited to the power to adopt ethical and disciplinary standards.

(i) The Board shall not adopt rules to regulate individuals who do not use the title 'Registered Practicing Counselor'.

"§ 90-330. *Board general provisions.*—The Board shall be subject to the provisions of Chapter 93B of the General Statutes.

"§ 90-331. *Title and qualifications for registration.*—(a) Each person desiring to be registered by the Board shall make application to the Board upon such forms and in such manner as the Board shall prescribe, together with the required application fee established by the Board.

(b) The Board shall issue a certificate as 'Registered Practicing Counselor' to an applicant who:

(1) Holds a Master's degree from a college or university accredited by one of the regional accrediting associations or from a college or university determined by the Board to have standards substantially equivalent to a regionally accredited institution, and

(2) Has a degree including a concentration in subject matter directly related to the practice of counseling as defined in G.S. 90-325(a)(3) or a degree supplemented with courses that the Board determines to be substantially equivalent, and

(3) Provides satisfactory evidence of the completion of two years' experience in the practice of counseling under the direct supervision of a Registered Practicing Counselor. A doctoral degree in counseling from an accredited college or university may be substituted for two years of experience.

"§ 90-332. *Persons certified in other states.*—A counselor who holds a valid and unrevoked certificate as a Registered Practicing Counselor, or its equivalent, issued under authority of any state, or the District of Columbia, and who resides within the State of North Carolina, may perform work within the State: Provided, that he register with the State Board of Registered Practicing Counselors and comply with its rules regarding such registration. Such person may use the term 'Counselor' in connection with his name, but may not use the term 'Registered Practicing Counselor' without registering with the Board.

"§ 90-333. *Temporary exemption from academic qualifications.*—Applicants who were engaged in the practice of counseling before January 1, 1984, shall be exempt from the academic qualifications required by this Article for Registered Practicing Counselors and shall be registered upon passing the Board examination and meeting the experience requirements.

"§ 90-334. *Renewal of certificates of registration.*—(a) All certificates of registration shall be effective upon date of issuance by the Board, and shall expire on the second June 30 thereafter.

(b) All certificates of registration issued hereunder shall be renewed at the times and in the manner provided by this section. At least 45 days prior to expiration of each certificate of registration, the Board shall mail a notice for certificate renewal to the person certified for the current certification period. At least 10 days before the current certificate expires, the applicant must return the notice properly completed, together with a renewal fee established by the Board, upon receipt of which the Board shall issue to the person to be registered the renewed certificate of registration for the period stated on the said certificate.

(c) Any person certified who allows his certificate to lapse for failure to apply for renewal within 45 days after notice shall be subject to a late renewal fee as

established herein. Failure to apply for renewal of a certificate of registration within one year after the certificate's expiration date will require that a certificate of registration be reissued only upon application as for an original certificate.

"§ 90-335. *Disciplinary procedures.*—The Board may, in accordance with the provisions of Chapter 150A of the General Statutes, refuse to grant or to renew, may suspend, or may revoke the certificate of any person certified under this Article on the following grounds:

(1) conviction of a misdemeanor under this Article; or

(2) conviction of a felony under the laws of the United States or of any state of the United States; or

(3) gross unprofessional conduct, dishonest practice or incompetence in the practice of counseling; or

(4) procuring or attempting to procure a certificate of registration by fraud, deceit, or misrepresentation; or

(5) any fraudulent or dishonest conduct in counseling; or

(6) inability of the person to perform the functions for which a certificate of registration has been issued due to impairment of mental or physical faculties; or

(7) violations of any of the provisions of this Article or rules of the Board.

"§ 90-336. *Violation a misdemeanor.*—Any person violating any provision of this Article is guilty of a misdemeanor and, upon conviction thereof, may be punishable by fine, by imprisonment, or by both fine and imprisonment.

"§ 90-337. *Injunction.*—As an additional remedy, the Board may proceed in a superior court to enjoin and restrain any person from violating the prohibitions of this Article. The Board shall not be required to post bond in connection with such proceeding."

Sec. 2. Chapter 8 of the General Statutes is amended by adding the following new section:

"§ 8-53.7. *Counselor privilege.*—No person, duly registered pursuant to Chapter 90, Article 22 of the General Statutes, shall be required to disclose any information which he or she may have acquired in rendering professional counseling services, and which information was necessary to enable him or her to render professional counseling services: Provided, that the presiding judge of a superior or district court may compel such disclosure, if in the court's opinion the same is necessary to a proper administration of justice and such disclosure is not prohibited by other statute or regulation."

Sec. 3. Nothing herein contained shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this act.

Sec. 4. For the purposes of the appointment of the initial Board and of administrative preparation for the implementation of this Article, this act shall become effective July 1, 1983. For all other purposes, this act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

S. B. 608 **CHAPTER 756**

AN ACT TO VALIDATE CERTAIN RECORDED MAPS AND PLATS.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Article 4 of Chapter 47 of the General Statutes to read:

"§ 47-108.19. *Validation of certain maps and plats that cannot be copied.*—All maps and plats registered before June 1, 1983, pursuant to G.S. 47-30 that met all of the requirements of that statute except that they were not on a material from which legible copies could be made or did not contain the original of the surveyor's signature and acknowledgment are declared to be valid registrations."

Sec. 2. This act is effective upon ratification but does not affect pending litigation.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

S. B. 22 **CHAPTER 757**

AN ACT TO MAKE APPROPRIATIONS TO PROVIDE CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES.

The General Assembly of North Carolina enacts:

——TITLE/PURPOSES

Section 1. This act shall be known as "The Capital Improvement Appropriations Act of 1983".

Sec. 2. The appropriations made by the 1983 General Assembly for capital improvements are for constructing or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings and land for State government purposes.

——PROCEDURES FOR DISBURSEMENTS

Sec. 3. The appropriations made by the 1983 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution or agency, until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article I of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget with the advice of the Advisory Budget Commission shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period.

Where direct capital improvement appropriations are provided for the purpose of furnishing movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget.

Capital improvement projects authorized by the 1983 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in the act.

——CAPITAL IMPROVEMENTS/GENERAL FUND
——STATEWIDE GOVERNMENT COMPLEX MALL

Sec. 3.1. Appropriations are made from the General Fund for use by the State departments, institutions and agencies to provide for capital improvement projects according to the following schedule:

	1983-84	1984-85
Office of State Budget and Management		
01. Reserve for Repairs and Renovations	$ 15,000,000	$45,000,000
Department of Administration		
01. Renovations of Old Art Museum	1,000,000	-0-
Department of Crime Control and Public Safety (Total)	1,063,184	-0-
01. Construction of Butner Fire Station	836,000	-0-
02. Construction of National Guard Armories		
a. Franklin Armory Macon County		
Total	785,019	
Local	103,901	
Federal	570,014	
Appropriation	111,104	
b. Armory at Jackson Training Center-Cabarrus County		
Total	884,900	
Local	105,145	
Federal	663,675	
Appropriation	116,080	
University of North Carolina (Total)	35,780,440	47,914,000
A. To comply with consent decree:		
1. Construction of Engineering School Classroom/Lab Facility-Agricultural and Technical State University	8,396,000	-0-
2. Acquisition and Renovation of Anderson Jr. High School Building/ Winston-Salem	2,964,000	-0-
3. Construction of Administrative Office Building-Elizabeth City	-0-	3,876,000
4. Construction of New Library-Fayetteville State		8,371,000
B. UNC-G Physical Education		

Facility	6,000,000	7,364,000
C. UNC-Chapel Hill-Computer Science Building Program Development, 1st year	750,000	8,500,000
D. Appalachian State-Land Purchase	900,000	-0-
E. UNC-Charlotte-Physical Science Bldg.	5,000,000	4,680,000
F. NCSU		
1. Williams Hall-Extension	4,000,000	3,523,000
2. Fletcher Research Station	305,000	-0-
3. Natural Resource Research Center Program Development	250,000	-0-
4. Upper Piedmont Research Station-Reidsville	70,000	-0-
5. Bull Testing Facility-relocate from Rocky Mount to Butner	145,440	-0-
G. N.C. Memorial Hospital-Critical Care Center	7,000,000	11,600,000
Department of Natural Resources (Total)	1,283,620	100,000
01. Reserve for Water Resources Projects	1,100,000	-0-
02. Reserve for Beach Access Projects	100,000	100,000
03. Construction of Forest Resources Headquarters Building in Granville County	83,620	-0-
Department of Agriculture (Total)	4,197,000	195,000
01. Addition to Rollins Animal Disease Diagnostic Lab in Raleigh	1,992,000	-0-
02. Expansion and Improvements Raleigh Consumer Standards Lab	573,000	-0-
03. Construction at Duke Homestead Museum	250,000	-0-
04. Construction of Automated Forage Testing Lab at Constable Laboratory, Raleigh	437,000	-0-
05. Construction, Hampton Mariner's Museum	400,000	-0-
06. Construction of Regional Farmer's Market at Charlotte	195,000	195,000
07. Improvements and Site preparation		

at Western North Carolina Farmer's Market	350,000	-0-
GRAND TOTAL - GENERAL FUND	$58,324,244	$93,209,000

Sec. 4. Funds in the Reserve for Repairs and Renovations appropriated to the Office of State Budget and Management in Section 3.1 of this act shall be allocated to State departments, institutions and agencies, including the Board of Governors of The University of North Carolina, with the approval of the Governor and the advice of the Advisory Budget Commission, except that four hundred fifty-two thousand four hundred dollars ($452,400) of these funds shall be allocated for the State Government Complex Mall.

——CAPITAL IMPROVEMENTS/HIGHWAY FUND

Sec. 5. Appropriations are made from the Highway Fund for use of the Department of Transportation to provide for capital improvement projects according to the following schedule:

	1983-84	1984-85
Division of Highways		
01. Maintenance Complex - Warrenton	$ 150,000	$ -
02. Security Fencing - Statewide Locations	150,000	150,000
03. Energy Saving Improvements - Statewide	-	108,359
04. Ferry Maintenance Facility - Manns Harbor	3,500,000	-
Division of Motor Vehicles		
01. Motor Vehicles/Highway Patrol Buildings:		
A. Chocowinity	$ 431,600	$ -
B. Kenansville/ Carteret County	-	286,115
GRAND TOTAL - HIGHWAY FUND	$ 4,231,600	$ 544,474

——ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND

Sec. 6. When each capital improvement project appropriated by the 1983 General Assembly, other than those projects under The University of North Carolina Board of Governors, is placed under construction contract, direct appropriations shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Department of Administration. This project reserve fund shall be used, at the discretion of the Director of the Budget, solely to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the physical scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. Funds remaining in the General Fund Project Reserve and Federal Revenue Sharing Project reserve may be used for emergency repair and renovation projects at State facilities with the approval by the Director of the Budget. The project reserve fund shall not be used in connection with any projects under the Board of Governors of The University of North Carolina or the State Board of Community Colleges. At the discretion of the Director of the Budget any balances in the project reserve fund shall revert to the original source.

——APPROPRIATION MODIFICATIONS

Sec. 7. The Director of the Budget, when it is considered in the best interest of the State to do so, and upon the request of the pertinent department, agency or institution, may authorize an increase or decrease in size and scope of a direct or self-liquidating capital appropriation. Changes to a project established under this act or by other acts of the 1983 General Assembly may come from gifts, federal or private grants, from excess patient receipts collected above those budgeted by the North Carolina Memorial Hospital, from special fund receipts, or, from the funds appropriated for capital improvements by the 1983 General Assembly to that department, agency or institution. The Director of the Budget is authorized to increase from the sources of funds referred to in this section the cost of a project established by the 1983 General Assembly, but solely to allow for award of contracts where bids exceed appropriated funds, and on condition that the projects supplemented were designed within the size and physical scope intended by the applicable appropriation or any authorized changes in it, and, in the opinion of the Director of the Budget all means to award contracts within the appropriation were reasonably attempted.

——GOVERNOR AND ADVISORY BUDGET COMMISSION/NEW PROJECT

Sec. 8. The Director of the Budget may with the advice of the Advisory Budget Commission, when it is considered in the best interest of the State to do so, and upon the request of a department, institution or agency, authorize the construction of a capital improvement project not specifically provided for or authorized by the General Assembly. Funds which become available by gifts, excess patient receipts collected above those budgeted by the North Carolina Memorial Hospital, federal or private grants, or receipts becoming a part of special funds by act of the General Assembly may be used for this purpose.

——ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS

Sec. 9. Funds which become available by gifts, excess patient receipts collected above those budgeted by the North Carolina Memorial Hospital, federal or private grants, or receipts becoming a part of special funds by act of the General Assembly may be utilized for advance planning through the working drawing phase of capital improvement projects upon approval of the Director of the Budget. The Director of the Budget may make allocations from the Advance Planning Revolving Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund shall not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.

Sec. 9.1. Notwithstanding the changes permitted in previous sections of this act, the appropriations in Section 3.1 of this act to the Department of Agriculture shall be expended only for those specific projects. Construction of those projects shall be commenced or self-liquidating indebtedness with respect to them shall be incurred within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and the self-liquidating appropriation shall lapse. This deadline with respect to both direct and self-liquidating appropriations may be extended up to an additional 12 months with the approval of the Director of the Budget, with the advice of the Advisory Budget Commission, when existing

circumstances and conditions warrant such extension. The Tobacco History Corporation is to supplement by the sum of forty thousand dollars ($40,000) monies to fund the design of the exhibits in the proposed addition to the Duke Homestead Museum.

——APPROPRIATIONS LIMITS/REVERSION OR LAPSE

Sec. 10. Notwithstanding the changes permitted in previous sections of this act, the appropriations for capital improvements made by the 1983 General Assembly shall be expended only for specific projects set out by the 1983 General Assembly. Construction of all capital improvement projects enumerated by the 1983 General Assembly shall be commenced or self-liquidating indebtedness with respect to them shall be incurred within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in the project reserve fund. This deadline with respect to both direct and self-liquidating appropriations may be extended up to an additional 12 months with the approval of the Director of the Budget, with the advice of the Advisory Budget Commission, when existing circumstances and conditions warrant such extension.

——MUSEUM OF HISTORY RENOVATION

Sec. 11. The funds appropriated in Section 3.1 of this act for renovation of the old art museum building may be expended as matched on a two-to-one basis by the North Carolina Museum of History Associates.

——UNC-CHAPEL HILL COMPUTER SCIENCE FUNDS/NCSU NATURAL RESOURCES CENTER

Sec. 12. As a principal component in the State's effort to attract high technology industry, the appropriations in Section 3.1 of this act to the Board of Governors of The University of North Carolina for capital improvements include seven hundred fifty thousand dollars ($750,000) for the 1983-84 fiscal year for program development and eight million five hundred thousand dollars ($8,500,000) for the 1984-85 fiscal year for construction of the computer science building at The University of North Carolina at Chapel Hill.

——BEACH ACCESS PROGRAM

Sec. 13. G.S. 113A-134.3 is amended by adding a new sentence at the end to read:

"All grants to local governments pursuant to this Article for land acquisitions shall be made on the condition that the local government agrees to transfer title to any real property acquired with the grant funds to the State if the local government uses the property for a purpose other than beach access."

Sec. . (a) The title of Article 7A of Chapter 113A of the General Statutes is amended to read: "Coastal and Estuarine Water Beach Access Program".

(b) The first sentence of G.S. 113A-134.1 is amended by adding after the words "Atlantic Ocean" the words "and the estuarine waters".

(c) The first sentence of G.S. 113A-134.1 is amended by adding after the words "the coastal" the words "and estuarine water".

(d) The second paragraph of G.S. 113A-134.1 is amended by deleting the words "ocean beaches" wherever they appear and substituting "ocean and estuarine beaches".

(e) G.S. 113A-134.2 is amended by deleting the words "Coastal Beach" and substituting "Coastal and Estuarine Water Beach".

(f) G.S. 113A-134.2 is amended by adding after the words "Atlantic Ocean" the words "and estuarine waters".

(g) G.S. 113A-134.2 is amended by adding a second paragraph to read:

"The Coastal Resources Commission and the Department of Natural Resources and Community Development shall use the definition of 'estuarine water' used under Article 7 of this Chapter to administer this program."

(h) The first sentence of G.S. 113A-134.3 is amended by adding after the word "ocean" the words "and estuarine water".

(i) The fourth sentence of G.S. 113A-134.3 is amended by adding after the word "coastal" the words "and estuarine water".

(j) The fifth sentence of G.S. 113A-134.3 is amended by adding after the word "coast" the words "and estuarine waters".

(k) The sixth sentence of G.S. 113A-134.3 is amended by adding after the word "coastal" the words "and estuarine water".

——WATER RESOURCES PROJECTS

Sec. 14. Of the one million one hundred thousand dollars ($1,100,000) appropriated for fiscal year 1983-84 in Section 3.1 of this act for a reserve for Water Resources Projects, up to one-third may be used for small watershed projects. Notwithstanding the provisions of G.S. 139-54, no funds appropriated herein shall be used for State participation in the costs of land rights acquisition for small watershed projects.

——HIGHWAY PATROL STATION FUNDS

Sec. 15. The Department of Crime Control and Public Safety may use the unobligated funds appropriated by Chapter 1351 of the 1981 Session Laws (1982 Session) together with any other available funds to purchase and renovate an existing building to construct a highway patrol station in any highway patrol district headquarters that does not have a permanent station.

——EFFECTIVE DATE

Sec. 16. This act is effective July 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 1129 CHAPTER 758

AN ACT TO INCLUDE VESTED PENSION OR RETIREMENT RIGHTS IN MARITAL PROPERTY FOR PURPOSES OF EQUITABLE DISTRIBUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-20(b)(1) is amended by adding a new sentence to the end to read: "Marital property includes all vested pension and retirement rights, including military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act."

Sec. 2. G.S. 50-20(b)(2) is amended by rewriting the last sentence to read:

"The expectation of nonvested pension or retirement rights shall be considered separate property."

Sec. 3. G.S. 50-20(b)(3) is amended by adding a new paragraph to the end to read:

"The distributive award of vested pension and retirement benefits may be payments payable:

(1) as a lump sum by agreement;

(2) over a period of time in fixed amounts by agreement; or

(3) as a prorated portion of the benefits made to the designated recipient at the time the party against whom the award is made actually begins to receive the benefits.

Notwithstanding the foregoing, the court shall not require the administrator of the fund or plan involved to make any payments until the party against whom the award is made actually begins to receive the benefits. The award shall be based upon the proportion of the amount of time the marriage existed simultaneously with the employment which earned the vested pension or retirement rights to the total amount of time of employment. Said award shall not be based on contributions made after the separation, but shall include any growth on the amount of the pension or retirement account vested at the time of the separation. In the event the person receiving the distributive award dies, full rights to vested pension and retirement benefits, including military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act, shall belong to the party against whom the award is made. In the event the party against whom the award is made dies, the person receiving the distributive award shall receive no further benefits. The total amount of contributions, years of service and pension and retirement benefits shall be certified by the administrator of the plan or fund involved upon receipt of a court order to do so. No award shall exceed fifty percent (50%) of the cash benefits by the party against whom the award is made is entitled to receive. The provisions of this section and G.S. 50-21 shall apply to all retirement and pension systems and funds administered by the State pursuant to General Statutes Chapters 118, 120, 127A, 128, 135 and 143 to the extent of a member's accrued benefit at retirement or withdrawal as determined by the system's or fund's consulting actuary."

Sec. 4. G.S. 50-20(c)(5) is rewritten to read:

"(5) The expectation of nonvested pension or retirement rights, which is separate property;".

Sec. 5. This act is effective August 1, 1983.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

H. B. 1143 CHAPTER 759

AN ACT TO PROVIDE FAIR DISCOVERY TO DEFENDANTS IN CRIMINAL PROSECUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-903(d) is amended by inserting between the phrase "mechanical or electronic recordings" and the phrase "tangible objects" the phrase "buildings and places, or any other crime scene,".

Sec. 2. G.S. 15A-903 is amended by adding two new subsections to read:

"(f) Statements of State's Witnesses.

(1) In any criminal prosecution brought by the State, no statement or report in the possession of the State that was made by a State witness or prospective State witness, other than the defendant, shall be the subject of subpoena, discovery, or inspection until that witness has testified on direct examination in the trial of the case.

(2) After a witness called by the State has testified on direct examination, the court shall, on motion of the defendant, order the State to produce any statement of the witness in the posession of the State that relates to the subject matter as to which the witness has testified. If the entire contents of that statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the defendant for his examination and use.

(3) If the State claims that any statement ordered to be produced under this section contains matter that does not relate to the subject matter of the testimony of the witness, the court shall order the State to deliver that statement for the inspection of the court *in camera*. Upon delivery the court shall excise the portions of the statement that do not relate to the subject matter of the testimony of the witness. With that material excised, the court shall then direct delivery of the statement to the defendant for his use. If, pursuant to this procedure, any portion of the statement is withheld from the defendant and the defendant objects to the withholding, and if the trial results in the conviction of the defendant, the entire text of the statement shall be preserved by the State and, in the event the defendant appeals, shall be made available to the appellate court for the purpose of determining the correctness of the ruling of the trial judge. Whenever any statement is delivered to a defendant pursuant to this subsection, the court, upon application of the defendant, may recess proceedings in the trial for a period of time that it determines is reasonably required for the examination of the statement by the defendant and his preparation for its use in the trial.

(4) If the State elects not to comply with an order of the court under subdivision (2) or (3) to deliver a statement to the defendant, the court shall strike from the record the testimony of the witness, and direct the jury to disregard the testimony, and the trial shall proceed unless the court determines that the interests of justice require that a mistrial be declared.

(5) The term 'statement', as used in subdivision (2), (3), and (4) in relation to any witness called by the State means

a. a written statement made by the witness and signed or otherwise adopted or approved by him;

b. a stenographic, mechanical, electrical, or other recording, or a transcription thereof, that is a substantially verbatim recital or an oral statement made by the witness and recorded contemporaneously with the making of the oral statements."

Sec. 3. G.S. 15A-903(a)(2) is rewritten to read as follows:

"(2) To divulge, in written or recorded form, the substance of any oral statement made by the defendant, regardless of to whom the statement was made, within the possession, custody, or control of the State, the existence of

which is known or by the exercise of due diligence may become known to the prosecutor."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

S. B. 666 CHAPTER 760

AN ACT TO GRANT A PARTIAL TAX EXEMPTION FOR GASOHOL MADE FROM AGRICULTURAL OR FORESTRY WASTE PRODUCTS OR BY-PRODUCTS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 105-436.1(a) and G.S. 105-449.16(b) the tax on the blends of alcohol fuels described in those statutes is seven cents (7¢) per gallon from October 1, 1983, through June 30, 1985, if the ethanol used in the blend was produced from agricultural or forestry waste products or by-products.

Sec. 2. Notwithstanding G.S. 105-436.1(a) and G.S. 105-449.24 the annual refunds and rebates for the blends described in Section 1 of this act shall be at the following rates: for the year ending December 31, 1983, eight and one-half cents (8 1/2¢); for subsequent years, six cents (6¢).

Sec. 3. The Secretary of Revenue may adopt rules to implement this act. The rules shall provide that if a blend is made from ethanol that qualifies for the partial exemption allowed by this act as well as nonqualifying ethanol, the tax rate stated in this act applies in proportion to the amount of qualifying ethanol used in the blend. The rules shall also provide that if only part of a blend made from a mixture of qualifying and nonqualifying ethanol is sold in this State, the Secretary may presume that all of that blend sold in this State contained the qualifying ethanol and shall apply the tax rate allowed by this act accordingly.

Sec. 4. This act is effective upon ratification and expires on June 30, 1985.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.

S. B. 23 CHAPTER 761

AN ACT TO MAKE APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The appropriations made herein are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act, or as hereinafter provided, the savings shall revert to the appropriate fund at the end of the biennium.

*****

An outline of the provisions of the act follows this section. The outline shows the heading "——CONTENTS/INDEX—" and it lists by general

category the descriptive captions for the various sections and groups of sections that make up the act.

——CONTENTS/INDEX——

(This outline is designed for reference only, and it in no way limits, defines, or prescribes the scope or application of the text of the act.)

PART I.——CURRENT OPERATIONS/GENERAL FUND
Sec. 2.
PART II.——CURRENT OPERATIONS/HIGHWAY FUND
Sec. 3.
PART III——APPROPRIATION OF FEDERAL BLOCK GRANT FUNDS
Sec. 4.
PART IV.——SPECIAL PROVISIONS/HIGHWAY FUND CURRENT OPERATIONS
——HIGHWAY FUND/ALLOCATIONS BY TRANSPORTATION CONTROLLER
Sec. 5.
——HIGHWAY/LIMITATIONS ON TRANSFERS
Sec. 6.
——HIGHWAY FUNDS/ADJUSTMENTS TO REFLECT ACTUAL REVENUE
Sec. 7.
——RESERVE TO MATCH ADDITIONAL FEDERAL FUNDS
Sec. 8.
——CASH FLOW/HIGHWAY FUND APPROPRIATIONS
Sec. 9.
PART V.——GENERAL PROVISIONS
——SPECIAL FUNDS, FEDERAL FUNDS AND DEPARTMENTAL RECEIPTS/AUTHORIZATION FOR EXPENDITURES
Sec. 10.
——INSURANCE AND FIDELITY BONDS
Sec. 11.
——BUDGETING OF PILOT PROGRAMS
Sec. 12.
——BUDGET FORMAT
Sec. 13.
——OVERREALIZED AGENCY RECEIPTS
Sec. 14.
——SALARY ADJUSTMENT APPROPRIATIONS/AUTHORIZED TRANSFERS
Sec. 15.
——SALARY-RELATED CONTRIBUTIONS/EMPLOYERS
Sec. 16.
——SHIFT PREMIUM PAY
Sec. 17.
——DEBT SERVICE/INTEREST PAYMENT
Sec. 18.
——ITEMIZED STATEMENTS AND FORMS
Sec. 19.
——SPECIAL STUDY ON FIRE SERVICE TRAINING PROGRAMS
Sec. 20.

——LOCAL FIRE PROTECTION FOR STATE-OWNED PROPERTY
Sec. 21.
——TRAVEL ALLOWANCES
Sec. 22.
Sec. 23.
Sec. 24.
Sec. 25.
Sec. 26.
——DEPOSIT OF PAYROLL DEDUCTIONS
Sec. 27.
PART VI.——HUMAN RESOURCES
——AREA MENTAL HEALTH FUNDS
Sec. 28.
——DIX ADOLESCENT TREATMENT UNIT
Sec. 29.
——AID TO PLANNING REGIONS
Sec. 30.
——DOMICILIARY CARE FACILITIES
Sec. 31.
Sec. 32.
Sec. 33.
Sec. 34.
Sec. 35.
Sec. 36.
——AGED AND FAMILY CARE/COUNTY AND STATE SHARE OF COSTS
Sec. 37.
——LIMITATION/ABORTION FUNDS
Sec. 38.
——MURDOCH CENTER CONSTRUCTION WORK
Sec. 39.
——DHR/RENT INCREASE
Sec. 40.
——REPORT ON COST TO ESTABLISH THRESHOLD CONCENTRATIONS
Sec. 41.
——AUTISTIC CHILDREN'S FUNDS
Sec. 42.
——CUED SPEECH CENTER
Sec. 43.
——ECKERD WILDERNESS CAMPING PROGRAM
Sec. 44.
——RETROSPECTIVE ACCOUNTING ADJUSTMENT - AFDC
Sec. 45.
——DHR OFFICE SPACE
Sec. 46.
——MENTALLY ILL PROGRAM FUNDS
Sec. 47.
——LIMITATION ON AFDC AND FOOD STAMP ELIGIBILITY
Sec. 48.

——NON-MEDICAID REIMBURSEMENT
Sec. 49.
——RECEIPTS IN DIVISION OF HEALTH SERVICES
——McCAIN HOSPITAL
Sec. 51.
Sec. 52.
Sec. 53.
Sec. 54.
Sec. 55.
——FEDERAL BLOCK GRANTS
Sec. 56.
——IMPLEMENT THE BLOCK GRANTS MANUAL
Sec. 57.
Sec. 58.
——EQUALIZE FOSTER CARE PAYMENTS
Sec. 59.
——MEDICAID
Sec. 60.
——COUNTY MEDICAID RELIEF FUNDS
Sec. 61.
——MEDICAID RESERVE
Sec. 62.
——JUVENILE DETENTION FUNDS
Sec. 63.
——POISON CONTROL CENTER FUNDS
Sec. 64.
——CHILD ABUSE ASSESSMENTS
Sec. 65.
——FUNDS FOR AUTISTIC ADULTS
Sec. 66.
——WESTERN N.C. GROUP HOME FUNDS
Sec. 67.
——ALCOHOLISM FUNDS STUDY
Sec. 68.
——OLDER AMERICANS FUNDS/MATCH OTHER PROGRAMS
Sec. 69.
——COMMUNITY PROGRAMS/DEVELOPMENTALLY DISABLED
Sec. 70.
——MIXED BEVERAGE TAX FOR AREA MENTAL HEALTH PROGRAMS
Sec. 71.
——LIMIT COUNTY PARTICIPATION RATE INCREASE AFTER LOSS OF FEDERAL FUNDS
Sec. 72.
Sec. 73.
——CERTIFICATE OF NEED PROVISION FOR NURSING HOME BEDS
Sec. 74.
——DHR EMPLOYEES AS IN-KIND MATCH
Sec. 75.

——DHR SEWAGE FACILITY
Sec. 76.
PART VII.——HUMAN RESOURCES/PUBLIC EDUCATION
——FUNDS FOR MEMBERS OF THE CLASS IDENTIFIED IN WILLIE M.,
Sec. 77.
PART VIII.——PUBLIC SCHOOLS
——TEACHER SALARIES
Sec. 78.
——PUPIL TRANSPORTATION
Sec. 79.
——PURCHASE OF BUSES IN LIEU OF CONTRACT TRANSPORTATION
Sec. 80.
——EXCEPTIONAL CHILDREN/FUNDING FORMULA
Sec. 81.
——EXCEPTIONAL CHILDREN/FEDERAL FUNDS
Sec. 82.
——EXCEPTIONAL CHILDREN/LEGISLATIVE STUDY REPORT ON SPECIAL EDUCATION FINANCE
Sec. 83.
——EXCEPTIONAL CHILDREN/ACCOUNTING SYSTEM
Sec.
——EXCEPTIONAL CHILDREN/REPORT TO GENERAL ASSEMBLY
Sec. 85.
——SCHOOL FINANCE
Sec. 86.
——DAILY DUTY FREE PERIOD
Sec. 87.
Sec. 88.
——INSTRUCTIONAL SUPPLIES ALLOWANCE
Sec. 89.
——VOCATIONAL EDUCATION RESOURCES
Sec. 90.
——FUNDS TO OFFSET DECLINE IN ENROLLMENT
Sec. 91.
——EXTENDED DAY
Sec. 92.
——MODULAR CLASSROOM TIE-DOWN REQUIREMENTS
Sec. 93.
——TEXTBOOK APPROPRIATIONS/NOT REVERT
Sec. 94.
PART IX.——COMMUNITY COLLEGES
——FULL-TIME EQUIVALENT TEACHING POSITIONS/COMMUNITY COLLEGES
Sec. 95.
——OPERATING APPROPRIATIONS/NOT USED FOR RECREATION EXTENSION
Sec. 96.
——BOARD OF COMMUNITY COLLEGES REVISE FORMULA AMOUNTS
Sec. 97.

——COMMUNITY COLLEGES TUITION INCREASE
Sec. 98.
——TUITION INCREASE FOR ADULT BASIC EDUCATION
Sec. 99.
——NEW JOBS AND NEW SKILLS TRAINING
Sec. 100.
——HALIFAX COMMUNITY COLLEGE NEW INDUSTRY TRAINING
Sec. 101.
——PIEDMONT TECHNICAL COLLEGE
Sec. 102.
——HIGH TECHNOLOGY TRAINING
Sec. 103.
——"REGIONAL INSTITUTIONS" REDEFINED
Sec. 104.
——COMMUNITY COLLEGES/LIABILITY INSURANCE
Sec. 105.
——ASSISTANCE TO HOSPITAL NURSING/FUND DISTRIBUTION
Sec. 106.
PART X.——HIGHER EDUCATION
——WAKE FOREST AND DUKE MEDICAL SCHOOL ASSISTANCE/FUNDING FORMULA
Sec. 107.
——AID TO PRIVATE COLLEGES/PROCEDURE
Sec. 108.
Sec. 109.
——AID TO PRIVATE COLLEGES
Sec. 110.
——INTEREST PROCEEDS ON SALE OF UNIVERSITY UTILITIES
Sec. 111.
——NONRESIDENT TUITION SET BY BOARD OF GOVERNORS
Sec. 112.
——BOARD OF GOVERNORS/EXPENDITURES
Sec. 113.
——UNC TUITION INCREASE
Sec. 114.
——BOARD OF GOVERNORS - AGRICULTURE PROGRAMS
Sec. 115.
——ECU MED SCHOOL/MEDICARE-MEDICAID REIMBURSEMENT
Sec. 116.
PART XI.——CULTURAL RESOURCES
——NORTH CAROLINA SYMPHONY/GRANT-IN-AID FUNDS
Sec. 117.
——SYMPHONY ENDOWMENT
Sec. 118.
PART XII.——NATURAL RESOURCES AND COMMUNITY DEVELOPMENT
——FOREST FIRE FIGHTERS' OVERTIME PAY
Sec. 119.
——FOREST DEVELOPMENT ACT REPORT

Sec. 120.
——FORESTRY COUNTY COOPERATIVE PROGRAM STUDY
Sec. 121.
——FORESTRY RADIO COMMUNICATIONS PILOT PROJECT
Sec. 122.
——STATE PARKS AND RECREATION FIELD STAFF UTILIZATION
Sec. 123.
——ADMINISTRATION OF COMMUNITY SERVICES BLOCK GRANT FUNDS
Sec. 124.
——COMMUNITY SERVICES BLOCK GRANT FUNDS
Sec. 125.
——COMMUNITY DEVELOPMENT BLOCK GRANTS
Sec. 126.
——TRANSFER OF FUNDS TO THE WILDLIFE RESOURCES COMMISSION
Sec. 127.
PART XIII.——COMMERCE
——ACCESS GUIDE FOR DISABLED
Sec. 128.
——TOURISM GRANT LIMITATION
Sec. 129.
——PETROLEUM OVERCHARGE FUNDS
Sec. 130.
——NORTH CAROLINA TOMORROW PROGRAMS
Sec. 131.
——UTILITIES COMMISSION OUTSIDE COUNSEL
Sec. 132.
——ALE FUNDING FROM BAILMENT SURCHARGE
Sec. 133.
Sec. 134.
PART XIV.——TRANSPORTATION
——HIGHWAY REPAIR, MAINTENANCE AND CONSTRUCTION CONTRACT PILOT PROGRAM
Sec. 135.
——DOT CULVERT INSTALLATION POLICY
Sec. 136.
——TRANSFER OF MOTOR CARRIER SAFETY REGULATION
Sec. 137.
Sec. 138.
——RESURFACED ROADS MAY BE WIDENED
Sec. 139.
——USE OF SALES TAX COLLECTED BY DIVISION OF MOTOR VEHICLES
Sec. 140.
——DRIVER TRAINING AND SAFETY EDUCATION
Sec. 141.
Sec. 142.
Sec. 143.

Sec. 144.
Sec. 145.
——MOTOR VEHICLE FINANCIAL RESPONSIBILITY
Sec. 146.
Sec. 147.
Sec. 148.
Sec. 149.
Sec. 150.
——DOT EXCEPTION TO VEHICLE POLICY INCREASED
Sec. 151.
PART XV.——JUDICIAL
——DISTRICT ATTORNEYS' CONFERENCE CREATED
Sec. 152.
——UNIFORM CRIMINAL CALENDARING
Sec. 153.
——COMMUNITY SERVICE FOR PERSONS GUILTY OF DWI
Sec. 154.
Sec. 155.
Sec. 156.
——PAROLE CONSIDERATION HEARINGS IN ONSLOW COUNTY
Sec. 157.
——INDIGENT COUNSEL FEE FUND
Sec. 158.
——STATEWIDE GUARDIAN AD LITEM PROGRAM
Sec. 159.
Sec. 160.
Sec. 161.
——MECKLENBURG PILOT PROGRAM FOR CUSTODY AND VISITATION DISPUTE MEDIATION
Sec. 162.
——APPELLATE DEFENDER CASELOAD
Sec. 163.
PART XVI——CRIME CONTROL AND PUBLIC SAFETY
——LICENSE PLATE STUDY
Sec. 164.
——BUTNER
Sec. 165.
Sec. 166.
——HIGHWAY PATROL GRADE CHANGE
Sec. 167.
PART XVII——CORRECTION
——DEPARTMENT OF CORRECTION/LAUNDRY SERVICES
Sec. 168.
PART XVIII——ATTORNEY GENERAL
——SUBMERGED LAND ATTORNEYS
Sec. 168.1.
PART XIX——ADMINISTRATION
——COORDINATION OF MAPPING AND AERIAL PHOTOGRAPHY
Sec. 169.

——PERSONNEL FOR SALE OF SWAMP LAND
Sec. 170.
——TRANSFER FOR SURPLUS PROPERTY WAREHOUSE
Sec. 171.
——OIL RE-REFINING FACILITY
Sec. 172.
——COMMUTING POLICY
Sec. 173.
Sec. 174.
Sec. 174.1.
——STATE-OWNED RENTAL HOUSING
Sec. 175.
PART XX——OFFICE OF THE GOVERNOR
——NEED BASED STUDENT LOANS
Sec. 176.
Sec. 177.
Sec. 178.
Sec. 179.
Sec. 180.
Sec. 181.
Sec. 182.
——STATE VEHICLE MAINTENANCE SYSTEM STUDY
Sec. 183.
——NC SCHOOL OF SCIENCE AND MATHEMATICS
Sec. 184.
——AGENCY RULES SUBMITTED TO THE DIRECTOR OF THE BUDGET
Sec. 185.
——JAIL FACILITY GRANT-IN-AID
Sec. 186.
PART XXI.——BOARD OF STATE CONTRACT APPEALS
Sec. 187.
Sec. 188.
Sec. 189.
Sec. 190.
Sec. 191.
Sec. 192.
PART XXII.——SALARY, RETIREMENT, AND EMPLOYEE BENEFITS
——MOST STATE EMPLOYEES/FIVE PERCENT SALARY INCREASE
Sec. 193.
——GOVERNOR/SALARY
Sec. 194.
Sec. 195.
——LEGISLATIVE EMPLOYEES/FIVE PERCENT SALARY INCREASE
Sec. 196.
——GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES
Sec. 197.
——JUDICIAL BRANCH OFFICIALS/SALARIES
Sec. 198.
——MAGISTRATES/SALARIES

Sec. 199.
——CLERKS OF COURT/SALARIES
Sec. 200.
——COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES
Sec. 201.
——HIGHER EDUCATION ACADEMIC PERSONNEL/SALARY INCREASES
Sec. 202.
——LEGISLATORS SALARIES INCREASED NO MORE THAN STATE EMPLOYEES
Sec. 203.
——COUNCIL OF STATE/SALARIES
Sec. 204.
Sec. 205.
Sec. 206.
Sec. 207.
Sec. 208.
Sec. 209.
Sec. 210.
Sec. 211.
Sec. 212.
Sec. 213.
Sec. 214.
Sec. 215.
——MISCELLANEOUS SALARIES
Sec. 216.
——FREEZE CONTINUED
Sec. 217.
——COST-OF-LIVING ADJUSTMENTS FOR RETIREES/TEACHERS, STATE EMPLOYEES, LAW OFFICERS, JUDGES, SOLICITORS, SUPERIOR COURT CLERKS
Sec. 218.
——COST-OF-LIVING ADJUSTMENTS FOR RETIREES/TEACHERS, STATE EMPLOYEES, LAW OFFICERS, JUDGES, SOLICITORS AND SUPERIOR COURT CLERKS
Sec. 219.
Sec. 220.
Sec. 221.
——UNREDUCED RETIREMENT ALLOWANCE/TEACHERS' AND STATE
Sec. 222.
——CODIFICATION OF AND AUTHORITY TO PAY SPECIAL PENSIONS FROM THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM
Sec. 223.
——CONSIDER TENTH STEP/RETIREMENT FORMULA INCREASE
Sec. 224.

——DISCONTINUED SERVICE RETIREMENT ALLOWANCE AND SEVERANCE WAGES FOR MEMBERS/TEACHERS, STATE EMPLOYEES, LAW OFFICERS
Sec. 225.
——GRANDFATHER FIVE-YEAR SERVICE REQUIREMENT/ALL RETIREMENT SYSTEMS
Sec. 226.
Sec. 227.
Sec. 228.
Sec. 229.
Sec. 230.
Sec. 231.
Sec. 232.
Sec. 233.
——SURVIVORS' BENEFITS/JUDICIAL RETIREMENT SYSTEM
Sec. 234.
Sec. 235.
——DEATH BENEFITS FOR LAW OFFICERS, FIREMEN, ETC.
Sec. 236.
Sec. 237.
——LEGISLATIVE RETIREMENT SYSTEM
Sec. 238.
Sec. 239.
Sec. 240.
——LOCAL LAW OFFICERS RETIREMENT FUNDING
Sec. 241.
——JUDICIAL PERSONNEL/LONGEVITY PAY
Sec. 242.
Sec. 243.
Sec. 244.
Sec. 245.
Sec. 246.
Sec. 247.
Sec. 248.
Sec. 249.
——NATIONAL GUARD PENSIONS
Sec. 250.
Sec. 251.
——NONCONTRIBUTORY HEALTH BENEFIT PREMIUMS/LEGISLATORS
Sec. 252.
Sec. 253.
Sec. 254.
Sec. 255.
Sec. 256.
PART XXIII.——SPECIAL PROVISIONS/APPROPRIATIONS ACT
——EXECUTIVE BUDGET ACT REFERENCE
Sec. 257.

——EFFECT OF MOST LIMITATIONS AND DIRECTIONS IN TEXT/ONLY - 1983-85
Sec. 258.
——SEVERABILITY CLAUSE
Sec. 259.
——EFFECTIVE DATE
Sec. 260.

EMPLOYEES' RETIREMENT SYSTEM

PART I.——CURRENT OPERATIONS/GENERAL FUND

Sec. 2. Effective July 1, 1983, appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the biennium ending June 30, 1985, according to the following schedule:

Current Operations-General Fund	1983-84	1984-85
General Assembly	$ 8,356,469	$ 11,245,627
Judicial Department	86,899,437	87,174,560
Indigent Person's Attorney Fee	14,106,078	12,931,431
Department of The Governor		
01. Office of The Governor	1,683,463	1,690,212
02. Office of Citizens Affairs	658,389	660,884
03. Office of State Budget and Management	3,411,136	3,135,647
04. Executive Residences	292,675	296,928
05. Medical Student Loans	997,704	997,704
06. Housing Finance Agency	1,000,000	1,000,000
Total Department of The Governor	8,043,367	7,781,375
Lieutenant Governor's Office	319,076	320,142
Department of Secretary of State	1,280,261	1,187,659
Department of State Auditor	8,487,886	8,644,150
Department of State Treasurer		
01. Operations	949,940	942,328
02. Law Enforcement Officers' Retirement-Local's Share	6,933,300	6,933,300
Total Department of State Treasurer	7,883,240	7,875,628
Department of Public Education		
01. Program Administration and Support	17,608,878	17,340,089
02. Fiscal Administration and Support	1,511,522,309	1,513,713,235
Total Department of Public Education	1,529,131,187	1,531,053,324
Department of Justice	27,162,930	27,102,751
Department of Agriculture	23,436,728	23,401,561
Department of Labor	4,631,278	4,641,794
Department of Insurance	4,404,955	4,423,737
Department of Administration	36,045,814	36,876,893
Department of Transportation		
01. Public Transportation	1,340,000	1,340,000
02. Aeronautics	3,516,571	3,516,571

03. Aid to Railroads	100,000	100,000
Total Department of Transportation	4,956,571	4,956,571
Department of Natural Resources and Community Development	40,489,613	40,781,073
Department of Human Resources		
01. Alcoholic Rehabilitation Center - Black Mountain	2,524,748	2,551,215
02. Alcoholic Rehabilitation Center - Butner	1,920,431	1,941,554
03. Alcoholic Rehabilitation Center - Greenville	1,620,807	1,640,337
04. N.C. Special Care Center	3,010,873	3,090,033
05. Black Mountain Center	62,509	101,396
06. DHR - Administration and Support Program	15,555,866	15,560,475
07. Schools for the Deaf	12,107,822	12,030,692
08. Governor Morehead School	3,561,629	3,589,865
09. Division of Health Services	52,727,887	54,350,042
10. Lenox Baker Hospital	519,014	534,019
11. Social Services	63,842,160	63,688,235
12. Medical Assistance	183,579,577	183,975,138
13. Social Services - State Aid to Non-State Agencies	3,610,750	3,352,790
14. Division of Services for the Blind	4,883,020	5,119,996
15. Division of Mental Health - Administration	6,196,609	6,218,163
16. Division of Mental Health - Community Based Programs	79,149,790	78,222,925
17. Wright School	1,016,560	1,021,592
18. Dorothea Dix Hospital	23,569,067	23,858,481
19. Broughton Hospital	21,010,196	21,347,620
20. Cherry Hospital	20,548,531	20,805,180
21. John Umstead Hospital	19,341,860	19,232,417
22. Western Carolina Center	2,891,938	3,111,577
23. O'Berry Center	2,585,626	2,857,407
24. Murdoch Center	17,406,015	15,157,326
25. Caswell Center	11,812,532	12,238,360
26. Division of Facility Services	6,140,872	6,139,199
27. Division of Vocational Rehabilitation Services	16,240,114	17,550,601
28. Division of Youth Services	25,209,838	24,142,658
Total Department of Human Resources	602,646,641	603,429,293
Department of Correction	177,101,440	180,620,865
Department of Commerce	18,448,199	18,524,404
Reserve for Microelectronics Center of North Carolina	7,255,000	10,045,000
Department of Revenue	29,587,097	30,164,632
Department of Cultural Resources	24,249,997	24,288,050

Department of Crime Control and Public Safety	11,367,413	10,280,231
University of North Carolina - Board of Governors		
01. General Administration	9,209,315	9,266,570
02. University Operations - Lump Sum	29,579,472	29,579,472
03. Related Educational Programs	28,549,178	28,370,122
04. University of North Carolina at Chapel Hill		
a. Academic Affairs	76,673,329	77,938,238
b. Division of Health Affairs	55,257,553	55,950,061
c. Area Health Education Centers	20,300,195	20,305,128
05. North Carolina State University at Raleigh		
a. Academic Affairs	89,363,937	90,575,889
b. Agricultural Research Service	21,116,978	21,123,752
c. Agricultural Extension Service	16,355,158	16,365,256
06. University of North Carolina at Greensboro	30,638,085	30,976,513
07. University of North Carolina at Charlotte	25,646,010	25,907,291
08. University of North Carolina at Asheville	6,093,125	6,156,591
09. University of North Carolina at Wilmington	14,370,541	14,588,419
10. East Carolina University	60,981,301	61,724,266
11. North Carolina Agricultural and Technical State University	19,409,250	19,740,401
12. Western Carolina University	19,038,492	19,484,767
13. Appalachian State University	27,986,822	28,205,044
14. Pembroke State University	6,984,880	7,022,145
15. Winston-Salem State University	8,712,287	8,846,171
16. Elizabeth City State University	6,694,069	6,775,401
17. Fayetteville State University	8,288,837	8,340,643
18. North Carolina Central University	16,617,942	16,933,753
19. North Carolina School of the Arts	4,781,004	4,833,173
20. North Carolina Memorial Hospital	21,107,045	21,336,236
Total University of North Carolina	623,754,805	630,345,302
Department of Community Colleges	220,607,992	226,126,908
State Board of Elections	230,365	231,440
Contingency and Emergency	1,125,000	1,125,000
Reserve for Salary Adjustments	500,000	500,000
Reserve for Electronic Data Processing Equipment	1,000,000	1,000,000

Reserve for Cost-of-Living Salary Increase	129,865,700	130,355,000
Reserve for Cost-of-Living Increase for Retirees	2,319,800	2,435,800
Reserve-Hospital-Medical Benefits, Retirees	19,528,000	19,528,000
Reserve for the McCain Prison Medical Center	4,400,000	4,400,000
Debt Service - Interest	37,825,500	40,209,750
Debt Service - Redemption	41,700,000	41,700,000
GRAND TOTAL CURRENT OPERATIONS-GENERAL FUND	$3,759,147,839	$3,785,707,951

PART II.——CURRENT OPERATIONS/HIGHWAY FUND

Sec. 3. Effective July 1, 1983, appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 1985, according to the following schedule:

Current Operations - Highway Fund	1983-84	1984-85
Department of Transportation		
01. Administration	$ 16,579,946	$ 16,831,051
02. Highways		
a. Administration and Operations	18,418,215	18,460,221
b. State Construction		
(01) Primary Construction	6,700,000	1,500,000
(02) Secondary Construction	43,860,000	43,440,000
(03) Urban Construction	15,500,000	5,700,000
(04) Access and Public Service Roads	2,000,000	2,000,000
c. State Funds to Match Federal Highway Aid		
(01) Construction	59,453,659	35,588,249
(02) Reserve to Match Additional Federal Funds	19,800,000	6,800,000
(03) Planning Survey and Highway Planning Research	56,069	734,006
d. State Maintenance		
(01) Primary	59,234,591	59,264,085
(02) Secondary	109,002,091	109,057,391
(03) Urban	15,259,756	15,267,129
(04) Contract Resurfacing	78,571,762	78,571,762
e. Ferry Operations	10,114,459	10,114,459
f. State Aid to Municipalities	43,460,000	43,040,000
g. Employers' Contributions for Administration, Highway Operations Administration, Division of Motor Vehicles		

and Equipment Unit		
(01) Social Security	3,066,546	3,115,188
(02) Retirement	4,559,360	4,515,650
(03) Hospital/Medical Insurance	1,428,265	1,428,265
03. Division of Motor Vehicles	32,375,511	34,350,870
04. Governor's Highway Safety Program	247,180	282,871
05. Salary Adjustments for Highway Fund Employees	200,000	200,000
06. Debt Service	38,288,000	38,401,500
07. Reserve for Hospital Medical Benefits for Retirees	1,873,000	1,873,000
08. Reserve for Cost-of-Living Salary Increase	4,754,300	4,754,300
09. Reserve to Correct Occupational Safety and Health	350,000	350,000
10. Reserve for Increase in Retirement Allowances	236,100	248,000
Appropriations for Other State Agencies		
01. Crime Control & Public Safety	49,250,756	49,750,482
a. Reserve for Salary Adjustment for Certain Members of Highway Patrol	240,000	240,000
02. Other Agencies		
a. Department of Agriculture	1,744,034	1,741,158
b. Department of Commerce	618,126	619,165
c. Department of Revenue	1,085,342	1,087,547
d. Department of Human Resources	246,291	246,604
e. Department of Correction	1,750,000	1,750,000
f. Department of Public Education-Driver Training Program	18,200,000	18,300,000
Contingencies and Emergency Fund	100,000	100,000
GRAND TOTAL CURRENT OPERATIONS - HIGHWAY FUND	$ 658,623,359	$ 609,722,953

PART III——APPROPRIATION OF FEDERAL BLOCK GRANT FUNDS

Sec. 4. Effective July 1, 1983, appropriations from federal block grant funds are made for the fiscal year ending June 30, 1984, according to the following schedule:

Department of Human Resources

01. Division of Mental Health, Mental Retardation, and Substance Abuse

	Services - Alcohol and Drug Abuse and Mental Health Services Block Grant	$10,435,359
02.	Division of Health Services	
	a. Maternal and Child Health Services Block Grant	$13,252,370
	b. Preventive Health and Health Services Block Grant	$ 2,436,142
03.	Division of Social Services	
	a. Social Services Block Grant	$67,790,887
	b. Low Income Energy Assistance Block Grant	$35,500,000
Total Department of Human Resources		$129,414,758
Department of Natural Resources and Community Development		
01.	Community Services Block Grant	$8,114,419
02.	Community Development Block Grant	$54,584,779
Total Department of Natural Resources and Community Development		$62,699,198
Department of Public Education		
01.	Education Consolidation and Improvement Act Chapter II	$11,267,741
Total Federal Block Grants		$203,381,697

PART IV.——SPECIAL PROVISIONS/HIGHWAY FUND CURRENT OPERATIONS

——HIGHWAY FUND/ALLOCATIONS BY TRANSPORTATION CONTROLLER

Sec. 5. (a) The Controller of the Department of Transportation shall allocate at the beginning of each fiscal year, from the various appropriations made to the Department of Transportation in Section 3 of this act under Titles 02.b. - State Construction, 02.c. - State Funds to Match Federal Highway Aid, 02.d. - State Maintenance, and 02.e. - Ferry Operations, sufficient funds to eliminate all overdrafts on State maintenance and construction projects, and such allocations may not be diverted to other purposes.

(b) This section is effective July 1, 1983.

——HIGHWAY/LIMITATIONS ON TRANSFERS

Sec. 6. (a) Transfers may be made by authorization of the Governor as Director of the Budget from Section 3 of this act, Titles 02.b.(01) - State Construction/Primary Construction, 02.b.(03) - State Construction/Urban Construction, 02.b.(04) - State Construction/Access and Public Service Roads, 02.c. - State Funds to Match Federal Highway Aid, 02.d. - State Maintenance, and 02.e. - Ferry Operations, provided that the original appropriation from which the transfer is made shall not be reduced by more than ten percent (10%) without consultation with the Advisory Budget Commission and the approval of the Director of the Budget. Transfers from Section 3 of this act, Titles 02.b.(01) - State Construction/Primary Construction, 02.b.(03) - State Construction/Urban Construction, 02.b.(04) - State Construction/Access and Public Service Roads, 02.c. - State Funds to Match Federal Highway Aid, 02.d. - State Maintenance, and 02.e. - Ferry Operations, for the purpose of providing additional positions, shall be approved by the Director of the Budget.

(b) This section is effective July 1, 1983.

——HIGHWAY FUNDS/ADJUSTMENTS TO REFLECT ACTUAL REVENUE

Sec. 7. Any unreserved credit balance in the Highway Fund on June 30 of each of the fiscal years shall support appropriations in the succeeding fiscal year. If all of the balance is not needed for these appropriations, the Director of the Budget may use the remaining excess to establish a reserve for access and public service roads, a reserve for unforeseen happenings or state of affairs requiring prompt action as provided for by G.S. 136-44.2, and other required reserves. If all of the remaining excess is not used to establish these reserves, the remainder shall be allocated to the State-funded maintenance or construction appropriations in the manner that the Board of Transportation deems appropriate.

——RESERVE TO MATCH ADDITIONAL FEDERAL FUNDS

Sec. 8. (a) Of the funds appropriated to the Department of Transportation in Section 3 of this act, nineteen million eight hundred thousand dollars ($19,800,000) for fiscal year 1983-84 shall be in a special Reserve to Match Additional Federal Funds. These funds may be allocated by the Director of the Budget, upon request from the board of transportation, if necessary to match supplemental federal funds made available to North Carolina by an increase of obligation ceilings, reapportionment of funds unused by other states, additional appropriations, or other sources.

(b) This section is effective July 1, 1983.

——CASH FLOW/HIGHWAY FUND APPROPRIATIONS

Sec. 9. The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 1985-86	$548,135,000
For Fiscal Year 1986-87	$547,130,000

PART V.——GENERAL PROVISIONS

——SPECIAL FUNDS, FEDERAL FUNDS AND DEPARTMENTAL RECEIPTS/AUTHORIZATION FOR EXPENDITURES

Sec. 10. (a) There is appropriated out of the cash balances, federal receipts, and departmental receipts available to each department, sufficient amounts to carry on authorized activities included under each department's operations. All these cash balances, federal receipts and departmental receipts shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by statute. The Director of the Budget may develop any necessary budget controls, regulations and systems to ensure that these funds and other State funds subject to the Executive Budget Act, shall not be spent in a manner which would cause a deficit in expenditures.

State departments, agencies, institutions, boards or commissions may make application for, receive or disburse any form of non-State aid. They shall deposit all non-State monies received with the State Treasurer, unless otherwise provided by State law, and shall expend these funds in accordance with the terms and conditions of the fund award which are not contrary to the laws of North Carolina.

(b) This section is effective July 1, 1983.

——INSURANCE AND FIDELITY BONDS

Sec. 11. Effective July 1, 1983, all insurance and all official fidelity and surety bonds authorized for the several departments, institutions, and agencies

shall be effected and placed by the Insurance Department, and the cost of placement shall be paid by the affected department, institution, or agency with the approval of the Insurance Commissioner.

——BUDGETING OF PILOT PROGRAMS

Sec. 12. (a) Any program designated by the General Assembly as experimental, model, or pilot shall not become a part of a department's continuation budget request for the ensuing biennium but shall be shown as a separate budget item or shall be considered as an expansion item until a succeeding General Assembly reapproves it.

Any new program funded in whole or in part through a special appropriations bill shall be designated as an experimental, model, or pilot program.

(b) The Governor shall submit to the General Assembly with his proposed budget a report of which items in the proposed budget are subject to the provisions of this section.

——BUDGET FORMAT

Sec. 13. (a) Article 1 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-10.1. *Budget required to include State cost of local programs.* The Office of State Budget and Management and the Director, with the advice of the Commission, shall prepare the State budget in a format that adequately and fairly reflects the continuation costs for the State's share of locally operated programs established by statute or State appropriation. These continuation costs shall be computed using the same budget preparation guidelines and rules prepared by the Office of State Budget and Management for use in State agency and institution budgets. Furthermore, in the projections for expansion costs related to employee compensation, the budget shall include the expansion costs necessary to cover the State's share of salary and salary-related items for employees in locally operated State-funded programs. Local governments or organizations spending State funds to operate local programs shall provide necessary information to the Office of State Budget and Management to establish the necessary continuation and expansion costs."

(b) This section is effective beginning with the State Budget prepared for the 1985-87 biennium.

——OVERREALIZED AGENCY RECEIPTS

Sec. 14. G.S. 143-27 is amended to read:

"§ 143-27. *Appropriations to educational, charitable and correctional institutions are in addition to receipts by them.*—All appropriations now or hereafter made to the educational institutions, and to the charitable and correctional institutions, and to such other departments and agencies of the State as receive moneys available for expenditure by them are declared to be in addition to such receipts of said institutions, departments or agencies, and are to be available as and to the extent that such receipts are insufficient to meet the costs anticipated in the budget authorized by the General Assembly, of maintenance of such institutions, departments, and agencies; provided, however, that actual receipts, in excess of the amounts budgeted may be expended only when justified by extenuating circumstances and authorized by the Director of the Budget.

The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations the amount of receipts

actually certified in General Fund Codes compared to the amount actually collected and expended in a fiscal year. This report shall apply to the previous fiscal year and shall be submitted by February 15 of each year."

——SALARY ADJUSTMENT APPROPRIATIONS/AUTHORIZED TRANSFERS

Sec. 15. Effective July 1, 1983, the Director of the Budget may transfer to General Fund budget codes from the General Fund salary adjustment appropriation, and to Highway Fund budget codes from the Highway Fund salary adjustment appropriation, amounts required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State government. The funds shall be transferred only when the use of salary reserve funds in individual operating budgets is not feasible.

——SALARY-RELATED CONTRIBUTIONS/EMPLOYERS

Sec. 16. (a) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of employee's salary. If an employee's salary is paid in part from the General Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions shall be paid from the General Fund only to the extent of the proportionate part paid from the General Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source which supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical insurance, longevity, unemployment insurance, and workers' compensation.

The State employer contribution percentage rates of covered salaries budgeted for the retirement systems for 1983-84, are (1) 10.03% - Teachers' and State Employees'; (2) 11.23% for State officers and 6.23% for Local Government officers - Law Enforcement Officers'; (3) 30.81% - Uniform Judicial; (4) 23.24% - Uniform Solicitorial; and (5) 28.25% - Uniform Clerks of Superior Court. Each of the foregoing contribution rates shall be increased by 0.85% for hospital and medical benefits, except the rate for local government law enforcement officers.

(b) This section is effective July 1, 1983.

——SHIFT PREMIUM PAY

Sec. 17. (a) Shift premium pay shall be paid to all State employees in non-medically related positions through salary grade 69 and to all State employees in medically related positions through salary grade 73, subject to the provisions of this section. Shift premium pay for employees in medically related positions shall be limited to ten percent (10%) of salary or one dollar ($1.00) per hour, whichever is greater. The State Personnel Commission shall set the higher shift premium pay for employees in medically related positions only after finding that the higher pay is necessary to meet existing competition from private employers.

The State Personnel Commission shall not adopt a shift premium pay schedule higher than those stated in this section unless the higher schedule is first approved by the General Assembly and funds are appropriated to implement the higher pay. The Commission may, however, request authorization to pay shift premium pay to employees in grades above those stated in this section when the Commission determines that there is a critical shortage of employees in a position because of competition from private

employers who pay shift premium pay for that type work. Such a request shall be made to the General Assembly if it is in session; otherwise, the request shall be approved by the Director of the Budget with the advice of the Advisory Budget Commission.

The State Personnel Commission is directed to strictly enforce its regulation requiring that employees who receive shift premium pay be regularly assigned to night or shift work. In enforcing the regulation the Commission shall strictly construe "regularly" so that shift premium pay shall not be paid to employees temporarily placed on a shift receiving such pay.

(b) This section is effective July 1, 1983.

——DEBT SERVICE/INTEREST PAYMENT

Sec. 18. (a) Funds remaining or reverting to the General Revenue Sharing Trust Fund during each fiscal year are appropriated for general fund debt service - interest payment.

(b) This section is effective July 1, 1983.

——ITEMIZED STATEMENTS AND FORMS

Sec. 19. G.S. 143-7 is amended by adding the following new paragraph:

"The Office of the Governor, and the General Assembly, any of its committees and subcommittees, the Legislative Research Commission, the Legislative Services Commission and any other commission in the legislative branch are exempt from G.S. 147-64.6(c)(10)."

This section is effective only if House Bill 517, 1983 Session is enacted, and if it is enacted, this section is effective on the same date that G.S. 147-64.6(c)(10) is effective.

——SPECIAL STUDY ON FIRE SERVICE TRAINING PROGRAMS

Sec. 20. There is created the Special Legislative Committee to Study Fire Service Training Programs. The Committee shall consist of four members appointed by the Speaker of the House, four members appointed by the Lieutenant Governor, and four representatives of the Emergency Services Community. The representatives of the Emergency Services Community shall be the Executive Secretary of the North Carolina Association of Rescue Squads, the Executive Secretary of the North Carolina Association of Fire Chiefs, the North Carolina Representative to the National Volunteer Fire Council, and the Executive Secretary of the North Carolina Fireman's Association. Cochairmen shall be selected by the Speaker of the House and the Lieutenant Governor.

Members of the Committee who are legislators shall be reimbursed for travel and subsistence expenses at the rates set out in G.S. 120-3.1. Members of the Committee who are not officers or employees of the State shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Members of the Commission who are officials or employees of the State shall receive travel reimbursement at the rate set forth in G.S. 138-6. All expenses of the Committee shall be paid from funds appropriated to the General Assembly Reserve for Contingencies. The Legislative Services Officer shall provide staff to the Committee.

The Committee shall:

(1) Study and review current statutory responsibilities of the State departments and agencies involved in the delivery of fire and rescue training programs;

(2) Analyze the total costs of these State programs; and

(3) Study and review any other pertinent data.

The Committee shall prepare a final written report to the 1984 General Assembly which shall include a detailed proposal on a more effective and coordinated delivery of State services to the fire and emergency services community throughout the State and shall include budgetary changes and statutory changes as needed to effectuate the proposal.

——LOCAL FIRE PROTECTION FOR STATE-OWNED PROPERTY

Sec. 21. Effective July 1, 1983, Article 21 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-191.05. *Transfer from Fund for local fire protection.*—Of the funds available in the cash balance of the State Property Fire Insurance Fund, the sum of one million four hundred fifty thousand dollars ($1,450,000) shall be transferred annually beginning in 1983-84 to the Office of State Budget and Management for compensating political subdivisions of the State for providing local fire protection on State-owned buildings and their contents, provided, however that beginning with the 1984-85 fiscal year if the State Treasurer makes a written finding to the Director of the Budget that the transfer for the 1984-85 fiscal year (or appropriate succeeding years) would cause financial instability in the State Property Fire Insurance Fund, then with the approval of the Director of the Budget after receiving the advice of the Advisory Budget Commission, funds from the General Fund shall supplement funds from the State Property Fire Insurance Fund that the State Treasurer certifies are available without causing financial instability so that the total State aid to local subdivisions under this section will remain at one million four hundred fifty thousand dollars ($1,450,000) for each fiscal year. The Office of State Budget and Management shall develop an equitable and uniform statewide method for distributing these funds to the State's political subdivisions.

——TRAVEL ALLOWANCES

Sec. 22. G.S. 138-6(a)(3) is amended by deleting "thirty-five dollars ($35.00) per day" and inserting in lieu thereof "forty-two dollars ($42.00) per day", and is further amended by deleting "forty-five dollars ($45.00) per day" and inserting in lieu thereof "fifty-four dollars ($54.00) per day".

Sec. 23. Whereas members of the General Assembly should be compensated with percentage salary and expense increases equal to those authorized for employees of the State; be it further resolved that members of the General Assembly should be allowed the same twenty percent (20%) increase in subsistence allowances that is authorized for employees of the State in this act.

Sec. 24. G.S. 138-5(a)(2)b. is amended by deleting "Thirty-five dollars ($35.00) per day" and inserting in lieu thereof "Forty-two dollars ($42.00) per day".

Sec. 25. (a) G.S. 120-3.1(a)(3) is rewritten to read:

"(3) A subsistence allowance in the amount of sixty dollars ($60.00) per day for each day of the period during which the General Assembly remains in session."

(b) G.S. 120-3.1 (a)(4) is amended by deleting "fifty dollars ($50.00) per day" and inserting in lieu thereof "sixty dollars ($60.00) per day."

(c) This section shall become effective upon the convening of the 1985 Regular Session of the General Assembly.

Sec. 26. G.S. 120-3.1(a)(2) is amended by adding the following sentence:

"The Legislative Services Commission shall establish criteria under which actual expenses in excess of the travel and subsistence allowances and registration fees as prescribed for employees of the State in G.S. 138-5 and G.S. 138-6, may be authorized for extraordinary lodging, meal and registration fee charges in the conduct of the State's official business."

——DEPOSIT OF PAYROLL DEDUCTIONS

Sec. 27. Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-34.6. *Deposit of payroll deductions.*—Employer and employee salary-related contributions and deductions for employees whose salaries were paid from the General Fund, Highway Fund, agency receipts, or any combination thereof shall not be withdrawn or transferred except to an account whose cash balance earns interest for the General Fund or Highway Fund, as provided in G.S. 147-69.1, until payment is made directly to the ultimate agency or party to whom they are due."

PART VI.——HUMAN RESOURCES

——AREA MENTAL HEALTH FUNDS

Sec. 28. (a) The Director of the Budget shall make available six million one hundred thousand dollars ($6,100,000) during the 1983-84 fiscal year for the continuation of mental health services in all area mental health programs, and for the continuation of the experimental deinstitutionalization project in the south central region.

Of the six million one hundred thousand dollars ($6,100,000), the first priority shall be three million one hundred thousand dollars ($3,100,000) to continue community mental health services that would otherwise be reduced and therefore result in increased readmissions to the State psychiatric hospitals.

The second priority shall be three million dollars ($3,000,000) to continue the experimental deinstitutionalization project authorized by the 1982 General Assembly and begun in the south central region during the 1982-83 fiscal year.

The Director of the Budget shall make the six million one hundred thousand dollars ($6,100,000) available through the use of carry forward federal block grant funds, overrealized receipts that might become available at each of the four psychiatric hospitals, and reductions in the budgets of the four hospitals. If overrealized receipts are available at any psychiatric hospital, they shall be credited and utilized for that hospital's share of the six million one hundred thousand dollars ($6,100,000). Budget reductions may include elimination of vacant positions and other reductions that might be associated with and in accordance with declining patient populations.

The Department of Human Resources shall report to the General Assembly by May 1, 1984, on the implementation of the deinstitutionalization project. The Department of Human Resources shall report periodically to the Mental Health Study Commission on the implementation of this plan.

(b) This section is effective July 1, 1983.

——DIX ADOLESCENT TREATMENT UNIT

Sec. 29. The Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services, shall continue to operate the adolescent treatment unit, now housed at Dorothea Dix Hospital, in a facility that meets all life safety code standards and is of comparable quality

to the current facility. Program services provided in the adolescent unit shall continue to be of the same quality and comparable to those now provided in the unit at Dorothea Dix Hospital.

——AID TO PLANNING REGIONS

Sec. 30. (a) Of the funds appropriated in Section 2 of this act to the Division of Facility Services as Aid to Planning Regions, no more than three hundred forty-five thousand dollars ($345,000) in fiscal year 1983-84 and three hundred forty-five thousand dollars ($345,000) in fiscal year 1984-85 shall be used for the salaries of staff in Lead Regional Organizations. The remainder of these funds shall be used to support local emergency medical services or shall revert to the General Fund.

(b) This section is effective July 1, 1983.

——DOMICILIARY CARE FACILITIES

Sec. 31. The Department of Human Resources shall increase the maximum monthly rates for "ambulatory" residents in domiciliary care facilities from four hundred eighty-five dollars ($485.00) to five hundred twenty-five dollars ($525.00), effective July 1, 1983. The maximum monthly rate for "semi-ambulatory" residents shall be five percent (5%) more than the "ambulatory" rate.

Sec. 32. Of the funds appropriated to the Division of Social Services in Section 2 of this act, the sum of four hundred sixty-nine thousand one hundred forty dollars ($469,140) in the 1983-84 fiscal year, and four hundred seventy-eight thousand seven hundred fifteen dollars ($478,715) in the 1984-85 fiscal year shall be used to provide an increase of five dollars ($5.00) per month in the personal needs allowance of eligible recipients of domiciliary care effective July 1, 1983.

Sec. 33. Of the funds appropriated to the Division of Blind Services, the sum of eleven thousand one hundred thirty dollars ($11,130) in each year of the 1983-85 biennium shall be used to provide an increase of five dollars ($5.00) per month in the personal needs allowance of eligible blind recipients of domiciliary care, effective July 1, 1983.

Sec. 34. Effective July 1, 1983, residents of area mental health agency operated group homes shall be eligible for Special Assistance for Adults and shall receive an income supplement based on the same eligibility criteria as other recipients of Special Assistance for Adults.

Sec. 35. G.S. 131D-3 and G.S. 131D-4 are amended by deleting the phrase "Facilities licensed for five beds or less" and substituting the following: "Facilities licensed under the provisions of G.S. 131D-2(a)(5)".

Sec. 36. (a) Funds for the income supplement paid to recipients of domiciliary care in the Special Assistance for the Blind program shall be budgeted as a part of the Special Assistance for Adults program in the Division of Social Services beginning in the 1984-85 fiscal year.

(b) This section shall become effective July 1, 1984.

——AGED AND FAMILY CARE/COUNTY AND STATE SHARE OF COSTS

Sec. 37. Effective July 1, 1983, the State shall pay seventy percent (70%) and the counties shall pay thirty percent (30%) of the authorized rates for domiciliary care in homes for the aged and for family care homes, including area mental health agency operated group homes.

——LIMITATION/ABORTION FUNDS

Sec. 38. No State funds in excess of one million three hundred seventy-four thousand five hundred dollars ($1,374,500), whether from tax revenue, gift, bequest, grant, or any other sources, shall be expended for the performance of abortions during the 1983-84 fiscal year or the 1984-85 fiscal year.

——MURDOCH CENTER CONSTRUCTION WORK

Sec. 39. Notwithstanding G.S. 143-135, the Director of the Budget is authorized during the 1983-85 biennium to use capital improvement funds of one million five hundred sixty-eight thousand dollars ($1,568,000), appropriated by the 1981 General Assembly first for renovation of the B-4 building at Murdoch Center and then to make necessary renovations to meet ICF-MR standards on any of the remaining buildings not presently meeting those standards.

——DHR/RENT INCREASE

Sec. 40. Effective August 1, 1983, the Department of Human Resources shall require employees living in Department-owned housing to pay one dollar and sixty-two cents ($1.62) per heated square foot rental annually except that the rental on any individual housing unit shall not increase more than ten percent (10%) during the 1983-84 fiscal year.

——REPORT ON COST TO ESTABLISH THRESHOLD CONCENTRATIONS

Sec. 41. The Department of Human Resources shall report to the General Assembly by May 15, 1984, on all departmental expenditures to implement HB 559, if ratified, "An Act to Prohibit the Use of Landfilling for Certain Classes of Hazardous Wastes and Other Solid Waste." The report shall state with specificity the expenditures to establish threshold concentrations.

——AUTISTIC CHILDREN'S FUNDS

Sec. 42. (a) Funds in the amount of thirty thousand dollars ($30,000) appropriated in Section 2 of this act for each year of the fiscal biennium to the Autistic Children's Society shall be expended for general operating expenses and for operation of a summer camp for autistic children.

(b) This section is effective July 1, 1983.

——CUED SPEECH CENTER

Sec. 43. (a) Funds in the amount of twenty-five thousand dollars ($25,000) appropriated in Section 2 of this act for each year of the fiscal biennium to the Department of Public Instruction, Division for Exceptional Children shall be expended for the Cued Speech Center, Inc.

(b) This section is effective July 1, 1983.

——ECKERD WILDERNESS CAMPING PROGRAM

Sec. 44. The Department of Human Resources shall sign a one-year contract with the Eckerd Wilderness Camping Program for the 1983-84 State fiscal year. The contract amount shall not exceed funds appropriated for that purpose. The Department shall include within that contract a provision which places a maximum of 12 months on the length of stay for a camper in the Eckerd Wilderness Camping Program except in the case of an emergency approved in writing by the Secretary of the Department of Human Resources.

The Department shall provide to members of the General Assembly the following information regarding the Eckerd Wilderness Camping Program: (a) an evaluation report by October 31, 1983; (b) an audit of the contract funds for 1982-83; and (c) a proposed fee schedule.

——RETROSPECTIVE ACCOUNTING ADJUSTMENT - AFDC

Sec. 45. (a) The Department of Human Resources shall use funds appropriated in Section 2 of this act to provide a State supplementary payment to Aid to Families with Dependent Children households adversely affected by the retrospective accounting procedure as allowed under § 403(a) of the Social Security Act (42 U.S.C. § 603(a)), as amended by § 157(a) of the Tax Equity and Fiscal Responsibility Act of 1982. The amount of the State supplement shall not exceed the maximum payment standard for the Aid to Families With Dependent Children program.

(b) This section shall become effective August 1, 1983.

——DHR OFFICE SPACE

Sec. 46. The Department of Human Resources shall use vacant State-owned office space, where appropriate, instead of renegotiating leases for rental of office space. The Department of Human Resources shall report on leased office space to the General Assembly by May 1, 1984.

——MENTALLY ILL PROGRAM FUNDS

Sec. 47. Notwithstanding the limitations set out in Chapter 1007 of the 1981 Session Laws on the use of program funds appropriated to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services for fiscal year 1981-82, the Division of Mental Health, Mental Retardation and Substance Abuse Services, may allocate funds appropriated for programs for the chronically mentally ill at levels approved by the Division.

——LIMITATION ON AFDC AND FOOD STAMP ELIGIBILITY

Sec. 48. The Social Services Commission shall adopt rules imposing work requirements under the Community Work Experience program demonstration project, in accordance with federal laws and regulations, as a condition for eligibility for Aid to Families with Dependent Children and Food Stamps.

——NON-MEDICAID REIMBURSEMENT

Sec. 49. Providers of medical services under the various State programs other than Medicaid offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program. The Department of Human Resources may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Maximum net family annual income eligibility standards for services in these programs with the exception of Migrant Health, School Health, and Home Health shall be as follows:

Family	Medical Eye Care			All
Size	Kidney	Adults	Rehabilitation	Other
1	6,400	3,600	5,053	4,200
2	8,000	4,400	6,608	5,300
3	9,600	4,600	8,161	6,400
4	11,000	5,400	9,718	7,500
5	12,000	5,800	11,276	7,900
6	12,800	6,100	12,828	8,300

7	13,600	6,500	13,116	8,800
8	14,400	6,900	13,411	9,300

These standards shall be in effect until change is approved by the Director of the Budget with the advice of the Advisory Budget Commission, or by the General Assembly.

——RECEIPTS IN DIVISION OF HEALTH SERVICES

Sec. 50. Of the one million dollar ($1,000,000) increase in anticipated receipts used to offset General Fund appropriations in the Department of Human Resources, Division of Health Services, no more than twenty percent (20%) may come from the Maternal and Child Health Care program.

——McCAIN HOSPITAL

Sec. 51. The McCain Specialty Hospital shall be closed by the Department of Human Resources on or before October 1, 1983, and after that date no funds appropriated to the department shall be used to continue operation of the hospital. As of October 1, 1983, all property comprising the former McCain Specialty Hospital is transferred to the Department of Correction, Division of Prisons, for use as a prison medical facility. The property transferred shall include land and buildings together with property installed in the buildings. The disposition of movable equipment and supplies on the site shall be determined by the Office of State Budget and Management after consultation with the departments involved.

Sec. 52. Funds appropriated in Section 2 of this act to the Office of State Budget and Management as a special reserve for McCain Specialty Hospital and prison medical facility shall be used for the following purposes:

(1) Operation of McCain Specialty Hospital from July 1, 1983, to October 1, 1983, and the subsequent operation of a prison medical facility in the same buildings.

(2) Operation of the McCain prison medical facility.

(3) Renovations and fencing necessary to convert the McCain Specialty Hospital to a correctional facility.

(4) Funds for local health departments, in counties served by McCain Hospital, for the purpose of providing treatment for tuberculosis at the community level.

(5) Funds to the Department of Human Resources, Division of Health Services, for a physician and other support staff to provide tuberculosis consultation to health departments in the south central region of the State as designated by the department.

All receipts that are received for services rendered at the McCain Specialty Hospital shall become a part of this reserve, and may be utilized for the purposes set forth in this section.

Sec. 53. The Department of Human Resources shall operate, from funds already appropriated, a tuberculosis unit at Cherry Hospital to provide services to patients now being treated at McCain Specialty Hospital who cannot be treated in a community hospital or outpatient clinic. After the closing of McCain Specialty Hospital, the department is authorized to admit tuberculosis patients to the unit at Cherry Hospital who cannot be treated in community hospitals or outpatient clinics.

Sec. 54. Those persons employed at McCain Specialty Hospital on the date of transfer of the facility, who maintain continuous employment with the Department of Correction or the Department of Human Resources, will not be

required to meet minimum employment standards established by the Criminal Justice Education and Training Standards Commission applicable to its position certification program. Such employees not involved in custody and programs will not be subject to the Commission's training requirements.

Sec. 55. Effective October 1, 1983, the General Statutes of North Carolina are amended by deleting the phrases "McCain Hospital", "McCain Specialty Hospital" and "North Carolina Specialty Hospital - McCain" wherever they appear.

——FEDERAL BLOCK GRANTS

Sec. 56. (a) The federal block grant funds appropriated in Section 4 of this act shall be spent in accordance with the plans submitted to the 1983 General Assembly by the Governor with the following exceptions:

Department of Human Resources

(1) Alcohol, Drug Abuse, and Mental Health Block Grant - Sixty thousand dollars ($60,000) shall be allocated to early intervention programs for emotionally disturbed children. One hundred thirty-eight thousand dollars ($138,000) shall be allocated to group homes for emotionally disturbed children. One hundred sixty-nine thousand eight hundred forty-seven dollars ($169,847) shall be allocated to crisis stabilization programs. All of these funds are net increases in program funds and shall not be used to supplant other money currently being used for these purposes.

(2) Low Income Energy Assistance Block Grant - Administrative cost shall be limited to no more than three million dollars ($3,000,000). Any administrative savings achieved may be reallocated to increase services under other parts of this block grant.

(3) Social Services Block Grant - State administrative cost is limited to two million five hundred thousand dollars ($2,500,000) excluding day care. Administrative cost for day care is limited to nine hundred fifty-nine thousand eight hundred sixty-eight dollars ($959,868).

Four hundred thousand dollars ($400,000) is allocated to in-home screening programs for the elderly with priority to those counties who have already started programs with county or State funds. Each of these screening programs shall receive twenty-five thousand dollars ($25,000) for start-up and operation costs.

Two hundred eighty-one thousand dollars ($281,000) shall be transferred to the Division of Health Services for the Sickle Cell program.

Four hundred ninety-two thousand five hundred sixty-three dollars ($492,563) shall be allocated to provide additional day-care slots for children.

(b) This section is effective July 1, 1983.

——IMPLEMENT THE BLOCK GRANTS MANUAL

Sec. 57. G.S. 143-16.1 is amended by adding a new sentence at the end to read:

"The Director of the Budget may adopt rules and regulations establishing uniform planning, budgeting and fiscal procedures, not inconsistent with federal law, that ensure that all federal funds shall be expended in a standardized manner."

Sec. 58. G.S. 143-341 is amended by adding a new subdivision to read:

"(10) Block Grants. To establish and maintain a block grants manual that will ensure uniform administration of block grant funds. The manual shall be a comprehensive source of reference for all general and statewide administrative procedures for block grant funds. The manual shall contain the applicable procedures for: the contents of an application, which shall be as simple as possible; the awarding of or contracting with block grant funds; auditing, which shall, to the extent possible, promote the use of single audits of grantees; the ensuring of civil rights compliance by grantees; and monitoring."

——EQUALIZE FOSTER CARE PAYMENTS

Sec. 59. Effective July 1, 1983, the Department of Human Resources shall equalize payments for foster care in the State Foster Care Benefits Program and the Title IV-E Foster Care Assistance Payments Program from funds available within Section 2 of this act to the Department of Human Resources, Division of Social Services. The maximum payment for foster care including room, board and personal needs allowance shall be one hundred sixty-five dollars ($165.00) per month.

——MEDICAID

Sec. 60. (1) *Medicaid Reimbursement.* Appropriations in Section 2 of this act for services provided in accordance with Title XIX of the Social Secuirity Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services are to be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subdivision.

Services and payment bases

(a) *Hospital - Inpatient* - Payment for hospital inpatient services will be based on a propsective rate reimbursement plan as established by the Department of Human Resources. Administrative days for any period of hospitalization shall be limited to a maximum of three days.

(b) *Hospital* - Outpatient - 80 percent (80%) of allowable costs.

(c) *Mental and Specialty Hospitals Skilled Nursing Facilities and Intermediate Care Facilities* - As prescribed under the State Plan for Reimbursing Long-Term Care Facilities. Skilled nursing facility participation in the Medicare program is a condition of participation in the North Carolina Medicaid skilled nursing facility program.

(d) *Intermediate Care Facilities for the Mentally Retarded* - As prescribed under the State Plan for reimbursing intermediate care facilities for the mentally retarded.

(e) *Drugs* - Drug cost as allowed by federal regulations plus three dollars and twenty-two cents ($3.22) professional services fee per month excluding refills for same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. (Payments for drugs are subject to the provisions of subdivision (8) of this section and to the provisions at the end of subdivision (1) of this section.)

(f) *Physicians, Chiropractors, Podiatrists, Optometrists, Dentists* - Fee schedules as developed by the Department of Human Resources. (Payments for dental services are subject to the provisions of subdivision (7) of this section.)

(g) *Community Alternative Program, EPSDT Screens* - Payment to be made in accordance with a rate schedule developed by the Department of Human Resources.

(h) *Home Health, Clinic Services, Mental Health Clinics* - Payment will be made according to reimbursement plans developed by the Department of Human Resources.

(i) *Medicare Buy-In* - Social Security Administration premium.

(j) *Ambulance Services* - 100 percent (100%) of allowable, reasonable, usual and customary charges.

(k) *Hearing Aids* - Actual cost plus a dispensing fee.

(l) *Rural Health Clinic Services* - Provider based - reasonable cost; nonprovider based - single cost reimbursement rate per clinic visit.

(m) *Family Planning* - Negotiated rate for local health departments. For other providers - see specific services, i.e., hospitals, physicians, etc.

(n) *Independent Laboratory and X-Ray Services* - 90 percent (90%) of allowable usual and customary charges.

(o) *Optical Supplies* - 100 percent (100%) of reasonable wholesale cost of materials.

(p) *Ambulatory Surgical Centers* - Negotiated rates, established by the Department of Human Resources.

(q) *Medicare Crossover Claims* - Actual coinsurance or deductible or both.

Notwithstanding the schedule for services and payments bases in this section, increases in Medicaid rates for home health services, clinic services, ambulance services, EPSDT screens, hearing aid dispensing fees, rural health clinics, family planning, independent laboratory and x-ray services, ambulatory surgical centers, and mental health clinics shall be limited to seven percent (7%). Increases in indirect costs, as defined in the State Plan for Reimbursing Long Term Care Facilities, shall be limited to three and four tenths percent (3.4%) per year for skilled nursing and intermediate care facilities. Physicians', Chiropractors', Podiatrists', Optometrists', and Dentists' fees shall not increase.

Reimbursement is available for up to 24 visits per recipient per year to any one or combination of the following: physicians, clinics, hospital outpatient, optometrists, chiropractors, and podiatrists. Prenatal services, EPSDT screens and emergency rooms are exempt from the visit limitations contained in this paragraph. Exceptions may be authorized by the Department of Human Resources where the life of the patient would be threatened without such additional care. Any person who is determined by the Department to be exempt from the 24-visit limitation shall also be exempt from the six-prescription limitation.

Payment basis terms of allowable, usual, reasonable, and customary are definitive terms prescribed by federal regulations governing the Medicaid program. Any changes in services or basis of payment in the Medicaid program must be approved by the Director of the Budget with the advice of the Advisory Budget Commission.

(2) Allocation of Nonfederal Cost of Medicaid. The State shall pay eighty-five percent (85%) and the counties shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section, except that the State shall pay sixty-five percent (65%) and the counties shall pay thirty-five percent (35%) of the nonfederal costs of those Skilled Nursing Facilities and Intermediate Care Facilities services which are not owned by the State.

(3) Co-payment for Medicaid Services. The Department of Human Resources is authorized to establish co-payment up to the maximum permitted by federal law and regulation.

(4) Prepaid Health Care for Medicaid Recipients. The Department of Human Resources, Division of Medical Assistance, is authorized, subject to approval of a change in the State Medicaid Plan by the Director of the Budget with the advice of the Advisory Budget Commission, to purchase health care services on a prepaid basis.

(5) Medicaid and Aid to Families with Dependent Children Income Eligibility Standards. Maximum net family annual income eligibility standards for Medicaid, Aid to Families with Dependent Children and the Standard of Need for Aid to Families with Dependent Children shall be as follows:

		Categorically Needy		Medically Needy
Family Size	Standard of Need	AFDC Payment Level*	AA,AB,AD*	
1	$3,216	$1,608	$1,700	$2,200
2	4,224	2,112	2,200	2,900
3	4,848	2,424	2,500	3,300
4	5,304	2,652	2,800	3,600
5	5,808	2,904	3,000	3,900
6	6,264	3,132	3,200	4,200
7	6,720	3,360	3,400	4,500
8	6,984	3,492	3,600	4,700

*Aid to Families with Dependent Children (AFDC); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD). The payment level for Aid to Families with Dependent Children shall be fifty percent (50%) of the standard of need.

These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

(6) Spouse Responsibility. Notwithstanding the provisions of G.S. 108A-61, the Department of Human Resources, Division of Medical Assistance shall not deem the income or assets of the spouse of a person who is admitted as a long-term care patient in a certified public or private intermediate care or skilled nursing facility to be available to the institutionalized person.

(7) Dental Coverage Limits. Dental services will be provided on a restricted basis in accordance with regulations developed by the Department. Funds for dental services shall be disbursed only with prior approval by the Department of Human Resources, Division of Medical Assistance, as required by this subdivision. No prior approval shall be required for emergency services or routine services. Routine services are defined as examinations, x-rays, prophylaxis, nonsurgical tooth extractions, amalgam fillings, and fluoride treatments. Prior approval shall be required for all other services and for routine services performed more than two times during a consecutive 12-month period. The Department of Human Resources shall establish rules and regulations, as provided by the Administrative Procedures Act, to implement this subdivision.

(8) Dispensing of Generic Drugs. Notwithstanding Part 1A of Article 4 of Chapter 90 of the General Statutes, under the Medical Assistance Program (Title XIX of the Social Security Act) a prescription order for a drug designated

by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber personally indicates, either orally or in his own handwriting on the prescription order, "dispense as written" or words of similar meaning.

As used in this subdivision "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label or wrapping at the time of packaging; and "established name" shall have the same meaning as assigned that term by the Federal Food, Drug and Cosmetic Act as amended, 21 U.S.C. 301 *et seq.*

(9) Exceptions to Service Limitations, Eligibility Requirements and Payments. Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Human Resources, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans or community based services programs in accordance with plans approved by the U. S. Department of Health and Human Services, or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient.

(10) Volume Purchase Plans and Single Source Procurement. The Department of Human Resources, Division of Medical Assistance is authorized, subject to the approval of a change in the State Medicaid Plan, to contract for services, medical equipment, supplies and appliances by implementation of volume purchase plans, single source procurement or other similar processes in order to improve cost containment.

——COUNTY MEDICAID RELIEF FUNDS

Sec. 61. (a) Of the funds appropriated to the Department of Human Resources, Division of Medical Assistance, for fiscal year 1983-84 the sum of seven million four hundred thousand dollars ($7,400,000) shall be used to relieve those counties of the additional costs the counties incurred in fiscal year 1982-83 due to the difference between the 1977-78 and the 1982-83 State-county participation rates for domiciliary care facilities and non-State-owned skilled nursing and intermediate care facilities. These funds shall be distributed for actual cost incurred or on a pro rata basis in the proportion that an individual county's additional cost bears to the total additional cost to those counties which incurred additional costs in 1982-83.

(b) This section is effective July 1, 1983.

——MEDICAID RESERVE

Sec. 62. (a) Using funds reverted to the General Fund at the end of the 1982-83 fiscal year by the Division of Medical Assistance, a Reserve Fund consisting of eight million dollars ($8,000,000) is appropriated to the Department of Human Resources for the 1983-84 fiscal year. In addition, any receipts the State may recover from the federal government as a result of meeting the federal target for growth in the Medicaid program, as specified in the Omnibus Budget Reconciliation Act of 1981, shall also be deposited in this Reserve Fund.

Of the monies contained in this reserve, one million dollars ($1,000,000) in 1983-84 only shall be allocated to the Division of Social Services to provide additional aid to county departments of social services. These funds shall be used by county departments of social services to employ additional eligibility specialists so that the average amount of time necessary to process applications will be reduced. These funds shall be matched dollar for dollar by the counties.

The remaining monies contained in this Fund may be used only by the Division of Medical Assistance. The Division may use these monies only to provide medical services upon the disbursement of all other State appropriations to the Division of Medical Assistance.

(b) This section is effective July 1, 1983.

——JUVENILE DETENTION FUNDS

Sec. 63. (a) Of the funds appropriated in Section 2 of this act to the Department of Human Resources for juvenile detention centers, the sum of fifty-seven thousand five hundred forty-two dollars ($57,542) for fiscal year 1983-84 and the sum of thirty-six thousand six hundred forty dollars ($36,640) for fiscal year 1984-85 shall be allocated for the purpose of creating a pilot project involving transportation to the Buncombe County Regional Detention Center.

(b) The Department of Human Resources shall establish uniform policies for all the juvenile detention center funds, except for the funds for the pilot program.

(c) This section is effective July 1, 1983.

——POISON CONTROL CENTER FUNDS

Sec. 64. Effective July 1, 1983, there is appropriated in Section 2 of this act to the Department of Human Resources the sum of one hundred eighty thousand dollars ($180,000) for fiscal year 1983-84 and one hundred eighty thousand dollars ($180,000) for fiscal year 1984-85 for the purpose of ensuring the development and operation of a statewide poison control center to serve the citizens, health professionals, and health facilities of North Carolina.

——CHILD ABUSE ASSESSMENTS

Sec. 65. Effective July 1, 1983, there is appropriated in Section 2 of this act to the Division of Social Services, Department of Human Resources, the sum of thirty-five thousand dollars ($35,000) for the fiscal year 1983-84 and the sum of thirty-five thousand dollars ($35,000) for the fiscal year 1984-85, for the purpose of performing medical assessments of children suspected of being abused or neglected.

——FUNDS FOR AUTISTIC ADULTS

Sec. 66. (a) Effective July 1, 1983, there is appropriated in Section 2 of this act the sum of thirty-five thousand dollars ($35,000) in fiscal year 1983-84 to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services for the purpose of designing and establishing a program plan for autistic persons who have aged out of the public school system.

(b) The Division is directed to work cooperatively with the Department of Public Instruction, the Division of Vocational Rehabilitation, Division TEACCH (Treatment and Education of Autistic and other Communications Handicapped Children and Adults) and the North Carolina Society for Autistic Adults and Children to formulate a specific program plan for these services.

——WESTERN N.C. GROUP HOME FUNDS

Sec. 67. Effective July 1, 1983, there is appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Service, the sum of thirty-two thousand five hundred dollars ($32,500) for fiscal year 1983-84 as predevelopment and start-up funds, and the sum of one hundred thirty-six thousand six hundred fifty

dollars ($136,650) for fiscal year 1984-85 as operational funds, for Western North Carolina Group Homes for Autistic Adults in Buncombe County.

——ALCOHOLISM FUNDS STUDY

Sec. 68. The Department of Human Resources shall study the set of reports filed at the end of the 1982-83 fiscal year pursuant to G.S. 18B-805(h).

The Department shall also study the use of funds collected under G.S. 20-179.2, especially the amount collected in excess of that needed to operate, evaluate, and administer the Alcohol and Drug Education Traffic Schools. The Department shall determine if these excess funds are being spent in alcoholism and drug abuse programs and include an enumeration of any instances in which funds earmarked for alcohol and drug abuse programs are being spent otherwise.

The Department shall report to the General Assembly not later than the first day of the Regular 1984 Session of the 1983 General Assembly.

——OLDER AMERICANS FUNDS/MATCH OTHER PROGRAMS

Sec. 69. Effective July 1, 1983, the Department of Human Resources, Division of Aging, is authorized to use funds appropriated for the 1983-85 biennium as State matching funds for Title VII of The Older Americans Act as State matching funds for other federal programs.

——COMMUNITY PROGRAMS/DEVELOPMENTALLY DISABLED

Sec. 70. (a) Funds in the amount of seven hundred seventy-seven thousand one hundred forty-four dollars ($777,144) are appropriated in Section 2 of this act in each year of the biennium to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse for the increased costs in the following community programs for the developmentally disabled: early childhood intervention; respite; group homes for children and adults; developmental day subsidy; specialized community residential subsidy; specialized foster care subsidy; apartment living; and, mentally retarded/behaviorally disordered group homes.

(b) This section is effective July 1, 1983.

——MIXED BEVERAGE TAX FOR AREA MENTAL HEALTH PROGRAMS

Sec. 71. (a) Funds received by the Department of Human Resources from the tax levied on mixed beverages under G.S. 18A-15(3)c.3. or G.S. 18B-804(b)(8) shall be expended by the Department of Human Resources for alcohol programs in area mental health centers. These funds shall be matched by local funds in accordance with the State/local ratio established by the current area mental health matching formula. These funds shall be allocated to the area mental health programs on a per capita basis as determined by the Office of State Budget and Management's most recent estimates of county populations.

(b) This section is effective July 1, 1983.

——LIMIT COUNTY PARTICIPATION RATE INCREASE AFTER LOSS OF FEDERAL FUNDS

Sec. 72. (a) If the federal funding of joint State/county programs is reduced or eliminated, no State agency shall, without direction from the General Assembly, (i) increase the required county financial participation rate in any State/county program to offset the reduced or eliminated federal funding to an amount which is greater than the current county proportion of the nonfederal share of those programs, or (ii) direct the use of county matching funds no longer necessary for the funding of joint State/county programs.

(b) This section is effective July 1, 1983.

Sec. 73. (a) In disbursing funds from any federal block grant during the 1983-84 and 1984-85 fiscal years, the State may require local governmental units to match the funds at the same ratio as they were required to match analogous funds during the 1982-83 fiscal year. Affected local governmental units may expend local revenues, including ad valorem taxes, to meet this matching requirement.

(b) This section is effective July 1, 1983.

——CERTIFICATE OF NEED PROVISION FOR NURSING HOME BEDS

Sec. 74. (a) Section 31 of Chapter 1127, Session Laws of 1981, as extended by Section 3 of Chapter 655, Session Laws of 1983, is amended by adding a new subsection to read:

"(g) This section shall expire June 30, 1985."

(b) This section shall become effective June 30, 1983.

——DHR EMPLOYEES AS IN-KIND MATCH

Sec. 75. The Secretary of the Department of Human Resources may assign employees of the Department to serve as in-kind match for contracts with nonprofit corporations working to establish cost containment measures for statewide prepaid health contracts for medical services. This section expires July 1, 1985.

——DHR SEWAGE FACILITY

Sec. 76. Effective June 30, 1983, unspent 1982-83 appropriations in the Department of Human Resources, not to exceed eight hundred thousand dollars ($800,000), may be used in 1983-84 as a reserve to match federal funds for a capital improvement project to upgrade the Butner Sewage Treatment Facility.

PART VII.——HUMAN RESOURCES/PUBLIC EDUCATION

——FUNDS FOR MEMBERS OF THE CLASS IDENTIFIED IN WILLIE M., *et al.* vs. HUNT, *et al.*

Sec. 77. (a) Legislative Findings. The General Assembly finds:

(1) That there is a need in North Carolina to provide appropriate treatment and education programs to children under the age of 18 who suffer from emotional, mental, or neurological handicaps accompanied by violent or assaultive behavior;

(2) That children meeting these criteria have been identified as a class in the case of Willie M., *et al.* vs. Hunt, *et al.*; and

(3) That these children have a need for a variety of services, in addition to those normally provided, that may include but are not limited to residential treatment programs, educational programs, and independent living arrangements.

(b) Funds for Department of Human Resources. It is the intent of the General Assembly that funds appropriated in Section 2 of this act to the Department of Human Resources for programs serving members of the Willie M. Class be expended only for programs serving members of the Willie M. Class identified in Willie M., *et al.* vs. Hunt, *et al.*, including evaluations of potential class members. It is recognized that therapeutic or economic reasons may, at times, require certain of these programs to serve a mixed clientele of Willie M. class members and other clients. To the maximum extent possible, however, these funds shall be expended solely for the benefit of Willie M. class members.

(c) Funds for Department of Public Education. Funds appropriated to the Department of Public Education in Section 2 of this act for members of the

Willie M. Class are to establish a supplemental reserve fund to serve only members of the class identified in Willie M., *et al.* vs. Hunt, *et al.* These funds shall be allocated by the State Board of Education to the local education agencies to serve those class members who were not included in the regular average daily membership and the census of children with special needs, and to provide the additional program costs which exceed the per pupil allocation from the State Public School Fund and other State and federal funds for children with special needs.

(d) The Department of Human Resources shall develop a prospective unit cost reimbursement system to be used to pay for services to Willie M. class members identified as a class in Willie M., *et al.* vs. Hunt, *et al.* This reimbursement system shall be submitted to the General Assembly for review by May 1, 1984, and implemented on July 1, 1984.

(e) Reporting Requirements. The Department of Human Resources and the Department of Public Education shall submit by April 1, 1984, a joint report to the Governor and the General Assembly on the progress achieved in serving members of the Willie M. Class. The report shall include the following unduplicated data for each county: (i) the number of children nominated for the Willie M. Class; (ii) the number of children actually identified as members of the class in each county; (iii) the number of children served as members of the class in each county; (iv) the number of children that remains unserved; (v) the types and locations of treatment and education services provided to class members; (vi) the cost of services, by type, to members of the class; (vii) information on the impact of treatment and education services on members of the class.

(f) The Departments of Human Resources and Public Education shall provide periodic reports of expenditures on behalf of the Willie M. Class to the Joint Legislative Commission on Governmental Operations.

(g) In fulfilling the responsibilities vested in it by the Constitution of North Carolina, the General Assembly finds:

(1) That the responsible State agencies have made a *bona fide* good faith effort to comply fully with the requirements of the Court Orders in the case of Willie M., *et al.* vs. Hunt, *et al.*, and that services and placements for Willie M. class members are very greatly improved.

(2) That the General Assembly is responsible for assessing all of the vital needs of the citizens of the State of North Carolina, for evaluating the extent of its economic resources and the prevailing economic climate, and for determining how best to meet the needs of all of its citizens within the resources available to the State.

(3) That the funds hereby appropriated will enable the development and implementation of placement and services for the class members in Willie M., *et al.* vs. Hunt, *et al.* within a reasonable period of time considered within the context of the needs of the class members, the other needs of the State and the resources available to the State.

(4) That additional expenditures of funds for these purposes at this time would result in an accelerated expenditure of and an unreasonable waste of State funds inasmuch as such expenditures could not reasonably be expected to actually secure a higher degree of treatment or education for the class members than can be accomplished with the funds hereby appropriated.

(h) The General Assembly supports the efforts of the responsible officials and agencies of the State of North Carolina to meet the requirements of the Court Order in Willie M., *et al.* vs. Hunt, *et al.* However, in view of the findings in subsection (g) above, the General Assembly expressly directs that no State funds shall be expended on the placement and services of class members in Willie M., *et al.* vs. Hunt, *et al.*, or for any other thing or purpose arising out of this litigation, now or at any time in the biennium, except for those funds appropriated in Section 2 of this act to the Departments of Human Resources and Public Education for program serving members of the Willie M. Class identified in Willie M. *et al.* vs. Hunt, *et al.*, and for such funds as may be elsewhere appropriated by the General Assembly specifically for such purposes.

(i) This section is effective July 1, 1983.

PART VIII.——PUBLIC SCHOOLS

——TEACHER SALARIES

Sec. 78. (a) In the event that funds appropriated for teacher salaries for the 1982-83 fiscal year are inadequate to meet outstanding obligations, the Director of the Budget shall transfer excess revenues and unexpended appropriations to meet those obligations.

(b) This section is effective July 1, 1983.

——PUPIL TRANSPORTATION

Sec. 79. (a) The General Assembly directs the State Board of Education and local boards of education to use every opportunity to be efficient and economical in the pupil transportation operations (i) through maximum implementation of the management study conducted for the Board by the Office of State Budget and Management dated January 1983; (ii) through the Board's exercise of its leadership in setting new rules and regulations for the program; and (iii) through local boards' follow-through efforts and overall good management.

(b) The State Board of Education is directed to provide a written progress report on its actions to implement the recommendation of that report to the General Assembly at least 15 days prior to the convening date of the 1984 Regular Session of the 1983 General Assembly.

(c) As a result of the new directions set out in subsection (a) above, and in Chapter 630 of the 1983 Session Laws, it is anticipated that cost containment can be achieved and new directions forged.

(d) To that end, General Fund appropriations for pupil transportation to the Department of Public Education in Section 2 of this act shall be the maximum State expenditures for the pupil transportation program. The State Board of Education may request that funds be transferred pursuant to the Executive Budget Act for the school transportation program only if the funds are required due to an increase in gasoline prices or other critical transportation costs which are not included in the approved budget.

Local school administrative units may use other federal or local revenues to supplement State funds for pupil transportation, if necessary.

(e) To provide the strongest possible incentives for improved management at State and local levels, the Director of the Budget may authorize the State Board of Education to use State funds in the pupil transportation program to expedite its implementation of specific items in the Office of State Budget and Management Study, including the development of cost accounting, inventory control, and preventive maintenance systems, development of a comprehensive

management information system, and pilot testing bus routes and schedule models.

——PURCHASE OF BUSES IN LIEU OF CONTRACT TRANSPORTATION

Sec. 80. (a) Funds appropriated to the Department of Public Education for 1983-85 biennium for contract transportation to serve exceptional children may be used by local boards of education for the purchase of buses and minibuses as well as for the purposes authorized in the budget. These funds shall be expended in accordance with rules and regulations adopted by the State Board of Education.

(b) This section is effective July 1, 1983.

——EXCEPTIONAL CHILDREN/FUNDING FORMULA

Sec. 81. (a) Beginning July 1, 1983, the State Board of Education shall allot State funds for exceptional children according to the 1982-83 formula, including the applicable maximum percentages of children in each category of exceptionality which were funded under that formula except that:

(1) the level of support provided for exceptional children for the 1979-80 fiscal year shall continue to be a minimum level of State support;

(2) the eligible headcount shall include only those pupils identified according to criteria established by the State Board of Education and for whom an approved education plan is on file as of the reporting date;

(3) the eligible headcount may be revised as of June 1 each year to reflect the number of children which have entered the system since the fall counts, the number of children which left the system including those projected to have left the system by the end of the school year.

(b) Beginning July 1, 1984, all of subsection (a) of this section except for subdivision (a)(1) shall continue to apply; and

(1) a local education agency shall receive the amount it would receive under the formula set out under subsection (a) above less one-half the difference between what it would receive under that formula and what it received under the formula allocations in 1983-84; and

(2) funds for legislative salary increases provided in Section 2 of this act are exempt from (b)(1) above and are to be allocated in accordance with the remainder of this section.

(c) Beginning July 1, 1985, all of subsection (a) of this section except for subdivision (a)(1) and all of subsection (b) except for subdivision (b)(1) continue to apply and the level of support provided for exceptional children for the 1979-80 fiscal year shall have no effect on the level of State support.

——EXCEPTIONAL CHILDREN/FEDERAL FUNDS

Sec. 82. The Controller of the State Board of Education is directed to institute procedures which will make for maximum utilization of federal funds for exceptional children by State and local educational agencies.

——EXCEPTIONAL CHILDREN/LEGISLATIVE STUDY REPORT ON SPECIAL EDUCATION FINANCE

Sec. 83. The State Board of Education shall strengthen its accountability for the Special Education program (i) by making an in-depth examination of the Board's definitions and identification procedures, by category of exceptionality, so as to satisfy itself that they are reasonable and fair and to insure that they are uniformly applied and enforced; (ii) by having the superintendent of each local education agency certify pupil headcounts to

the Controller; and (iii) by the creation of an auditing section in the Controller's Office whose responsibility it shall be to audit pupil headcounts and to monitor compliance by each local education agency with Board policies and rules. Two positions shall be transferred from the Department of Public Instruction to the Controller's Office to support the auditing section outlined in this subsection. The Director of the Budget, with advice of the Advisory Budget Commission, is authorized to transfer additional personnel if necessary for this purpose. All positions transferred to this auditing section shall be supported by federal funds to the extent permitted by federal law.

Purposes (i), (ii) and (iii) set out in the paragraph above shall be accomplished within total program funds available.

——EXCEPTIONAL CHILDREN/ACCOUNTING SYSTEM

Sec. 84. The State Board of Education shall (i) develop a new, simplified accounting system to provide meaningful financial and cost data on which local and State program decisions may be made, and (ii) develop an implementation schedule for the system, identifying existing resources which may be redirected and additional resources which may be required.

——EXCEPTIONAL CHILDREN/REPORT TO GENERAL ASSEMBLY

Sec. 85. The State Board of Education shall report its progress on its actions to implement the directives in Sections 81, 82, 83 and 84, other recommendations included in the Legislative Report entitled "Financing Special Education in North Carolina", and such other prudent actions as may relate to the program and fiscal operations of the Exceptional Children's Program at the State and local levels 30 days prior to the convening of the 1984 Regular Session of the 1983 General Assembly.

——SCHOOL FINANCE

Sec. 86. (a) The State Board of Education shall develop a program for evaluating alternative means of distributing funds to local school administrative units, in accordance with the proposals of the 1979 Governor's Commission on Public School Finance and regulations and procedures to be developed by the Board with the advice of the Advisory Budget Commission, and to implement this plan in one school unit in each of the eight educational regions. To this end, the State Board shall:

(1) Define the State's basic educational program and determine its cost and report its progress to the General Assembly by March 1984

(2) Develop and propose to the General Assembly a system for allocating funds on a per pupil basis which is responsive to both State and locally determined needs and to local resources, and which would be a pilot program in the 1984-85 school year and if need be, would be modified for the 1985-86 school year, and

(3) Develop an accountability system by July 1985 which would allow the Board to assess the effectiveness of the programs it funds through the allocation procedure described above.

The State Board shall submit interim reports on its progress to each session of the Legislature beginning in 1984.

In order to ensure equitable funding under the plan, the selected pilot educational agencies will be funded at the same level as current procedures would provide.

If any such program established by the State Board conflicts with any provision of the statutes, the program may be implemented only with the

approval of the Director of the Budget after consultation with the Advisory Budget Commission, and in case such approval is granted, such program shall supersede the conflicting statute to the extent of the conflict.

(b) The State Board of Education shall recommend to the 1985 General Assembly a definition of State and local responsibilities for funding of the public schools which is consistent with current statutes, taking into consideration the ability of the various counties to finance their schools.

(c) In carrying out the provisions of this section, the State Board of Education shall involve wide participation on the part of groups directly affected by the outcome of the school finance proposals, including but not limited to legislators and representatives of county commissioners, local school boards, parents and employers and interested members of the general public.

——DAILY DUTY FREE PERIOD

Sec. 87. (a) Of the funds appropriated to the Department of Public Education in Section 2 of this act, the sum of two million one hundred seventy-five thousand three hundred eighty-eight dollars ($2,175,388) for the 1983-84 fiscal year and two million one hundred fifty-nine thousand one hundred forty dollars ($2,159,140) for the 1984-85 fiscal year shall be allocated to the local school administrative units on the basis of two dollars ($2.00) per average daily membership to provide all full-time assigned classroom teachers a duty free lunch or planning period during regular student contact hours. Local school administrative units may rotate professional and paraprofessional staff to provide the duty free period. If a local board of education can provide the duty free period without the expenditure of funds allocated to it pursuant to the provisions of this section, it may use the allotment for other educational goals such as in-service training.

A review of this program shall be conducted by the State Board of Education and the Board shall submit its findings to the 1985 General Assembly.

(b) This section is effective July 1, 1983.

Sec. 88. A new section is added to Chapter 115C of the General Statutes to read:

"§ 115C-301.1. *Duty free period.*—All full-time assigned classroom teachers shall be provided a daily duty free period during regular student contact hours. The duty free period shall be provided to the maximum extent that (1) the safety and proper supervision of children may allow during regular student contact hours and (2) insofar as funds are provided for this purpose by the General Assembly. If the safety and supervision of children does not allow a daily duty free period during regular student contact hours for a given teacher, the funds provided by the General Assembly for the duty free period for that teacher shall revert to the General Fund."

——INSTRUCTIONAL SUPPLIES ALLOWANCE

Sec. 89. (a) Of the funds appropriated to the Department of Public Education in Section 2 of this act, the sum of two dollars ($2.00) per average daily membership in expansion funds are appropriated for instructional supplies and materials for each year of the fiscal biennium and shall be allocated to each school in each local school administrative unit. No funds appropriated for instructional supplies and materials shall be used for administrative costs.

(b) This section is effective July 1, 1983.

——VOCATIONAL EDUCATION RESOURCES

Sec. 90. (a) The State Board of Education shall develop equipment standards for each vocational program level and shall assist local school administrative units in determining the adequacy of equipment for each vocational program available in each local school administrative unit.

Further, the State Board shall develop a plan to assure that minimum equipment standards for each program shall be met within total vocational resources - State, local and federal - available at the local level no later than June 30, 1986. The State Board shall consider all reasonable and prudent means to meet these minimum equipment standards and to insure a balanced vocational program for students in the public schools including setting aside a stated amount or percentage of available resources per program and seeking surplus property, donations, grants or permanent loans of equipment.

(b) G.S. 115C-302(a)(2) is amended by adding before the first proviso:

"Provided, that local boards shall not reduce the term of employment for any vocational agriculture teacher personnel position that was 12 calendar months for the 1982-83 school year for any school year thereafter:".

(c) Local boards of education shall accomplish the purpose of subsection (b) of this section without additional appropriations.

——FUNDS TO OFFSET DECLINE IN ENROLLMENT

Sec. 91. (a) Of the funds appropriated in Section 2 of this act to the Department of Public Education seven million seven hundred thousand dollars ($7,700,000) for fiscal years 1983-84 and 1984-85 shall be to help eliminate inequities resulting from a decline in enrollment. Notwithstanding the provisions of Section 54 of Chapter 838 of the 1979 Session Laws, the Department shall allot five million dollars ($5,000,000) of these funds to public school administrative units for employment in the schools, one position of assistant principal for each 25 or more State-allotted teachers, two positions for each 50 or more State-allotted teachers, three positions for each 75 or more State-allotted teachers, and four positions for each 100 or more State-allotted teachers. The Department shall also allot two million one hundred thousand dollars ($2,100,000) of these funds to provide 100 teachers for new innovative mathematics, science and computer science programs; no more than two of these teachers may be allotted for any one county. The Department shall also allot six hundred thousand dollars ($600,000) of these funds for clerical and custodial personnel.

(b) This section is effective July 1, 1983.

——EXTENDED DAY

Sec. 92. Of the reserve set up in Section 2 of this act for the extended day program in the Department of Public Education, a local school administrative unit may be selected only with the approval of that local board of education, and only upon a finding of fact by the State Board of Education after a public hearing by the State Board of Education in that local school administrative unit that there is sufficient support among the populace of that administrative unit and that the establishment of the program will result in a meaningful test of the effectiveness of this experimental program. The members of the State Board of Education shall hold the hearing themselves and shall not delegate to a hearing officer the responsibility to do so.

——MODULAR CLASSROOM TIE-DOWN REQUIREMENTS

Sec. 93. (a) The first sentence of the second paragraph of G.S. 115C-521(b) is amended by inserting after the words "relocatable or mobile home classroom units," the following: "whether built on the lot or not,".

(b) G.S. 115C-521(b) is amended by inserting after the first sentence of the second paragraph a new sentence to read: "These units shall also be anchored in a manner required to assure their structural safety in severe weather."

(c) Subsections (a) and (b) of this section are effective upon ratification and shall apply in each local school administrative unit on the first day of the 1983-84 school year. The Superintendent of Public Instruction shall notify each local school administrative unit of this section so that all affected units may be in compliance upon the commencement of the school year.

——TEXTBOOK APPROPRIATIONS/NOT REVERT

Sec. 94. Funds appropriated to the Department of Public Education for the purchase of elementary basic textbooks shall be permanent appropriations. Unobligated portions of these appropriations may revert to the General Fund at the direction of the Director of the Budget if he considers it necessary in order to maintain a balanced budget within any one fiscal year.

PART IX.——COMMUNITY COLLEGES

——FULL-TIME EQUIVALENT TEACHING POSITIONS/COMMUNITY COLLEGES

Sec. 95. (a) For the purpose of determining the Community College system-wide number of full-time equivalent (FTE) teaching positions each year, the total curriculum and extension full-time equivalent student enrollment shall be divided by 22.

(b) This section is effectie July 1, 1983.

——OPERATING APPROPRIATIONS/NOT USED FOR RECREATION EXTENSION

Sec. 96. (a) Funds appropriated in Section 2 of this act to the Department of Community Colleges as operating expenses for allocation to the institutions comprising the Community College System shall not be used to support recreation extension courses. The financing of these courses by any institution shall be on a self-supporting basis and membership hours produced from these activities shall not be counted when computing full-time equivalent students for use in budget-funding formulas at the State level.

(b) This section is effective July 1, 1983.

——BOARD OF COMMUNITY COLLEGES REVISE FORMULA AMOUNTS

Sec. 97. The State Board of Community Colleges may, with the approval of the Director of the Budget, revise the formulas for allocating operating funds to the community colleges and technical institutes. Increases in any per unit formula amounts shall be accompanied by decreases in other per unit formula amounts to produce an equivalent reduction in expenditures.

——COMMUNITY COLLEGES TUITION INCREASE

Sec. 98. The State Board of Community Colleges shall increase tuition and fees in the Community College System. Tuition for resident and nonresident full-time curriculum students, registration fees for occupational and academic extension courses, and registration fees for avocational and practical skills extension courses shall be raised an average of twenty-five percent (25%). Registration fees shall be increased sufficiently to cover the cost to the institution of providing avocational and practical skills courses.

——TUITION INCREASE FOR ADULT BASIC EDUCATION

Sec. 99. All funds generated by the tuition increase in excess of four million dollars ($4,000,000) for each year of the fiscal biennium shall be allotted by the State Board of Community Colleges to fund Adult Basic Education programs.

——NEW JOBS AND NEW SKILLS TRAINING

Sec. 100. (a) The funds appropriated in Section 2 of this act to the Department of Community Colleges for New and Expanding Industry funds shall be used for New Jobs and New Skills Programs.

(b) This section is effective July 1, 1983.

——HALIFAX COMMUNITY COLLEGE NEW INDUSTRY TRAINING

Sec. 101. (a) Of the expansion budget funds appropriated in Section 2 of this act to the Department of Community Colleges for New Jobs and New Skills Programs, the sum of two hundred thousand dollars ($200,000) for the 1983-84 fiscal year and three hundred thousand dollars ($300,000) for the 1984-85 fiscal year shall be allocated to Halifax Community College.

(b) This section is effective July 1, 1983.

——PIEDMONT TECHNICAL COLLEGE

Sec. 102. (a) Of the equipment funds appropriated to community colleges in Section 2 of this act, fifty-six thousand dollars ($56,000) shall be allocated to Piedmont Technical College for its new Skills Training Center in addition to all other equipment funds that they will receive through the formula funding.

(b) This section is effective July 1, 1983.

——HIGH TECHNOLOGY TRAINING

Sec. 103. (a) Of the funds appropriated in Section 2 of this act for high technology training programs, in 1983-84, one million dollars ($1,000,000) shall be allocated to Wake Technical College; two hundred thousand dollars ($200,000) to Durham Technical College; and fifty thousand dollars ($50,000) to Lenoir Community College; and in 1984-85, one million nine hundred seventy thousand dollars ($1,970,000) to Haywood Technical College.

(b) This section is effective July 1, 1983.

——"REGIONAL INSTITUTIONS" REDEFINED

Sec. 104. Effective July 1, 1983, G.S. 115D-2(4) is rewritten to read:

"The term 'regional institution' means an institution which serves residents from three or more counties that were assigned as of July 1, 1973, to the institution by the State Board of Community Colleges for the purpose of conducting adult basic education classes."

——COMMUNITY COLLEGES/LIABILITY INSURANCE

Sec. 105. Chapter 115D of the General Statutes is amended by adding a new section to read:

"§ 115D-31.1. *Liability insurance.*—Notwithstanding the provisions of G.S. 115D-32(a)(2)b.2 and any other provision of the law to the contrary, boards of trustees of all institutions in this Chapter may use State funds to pay the lawful premiums of liability insurance as provided in this section."

——ASSISTANCE TO HOSPITAL NURSING/FUND DISTRIBUTION

Sec. 106. (a) Funds appropriated in Section 2 of this act to the Department of Community Colleges to provide financial assistance to hospital programs of nursing education leading to diplomas in nursing which are fully accredited by the North Carolina Board of Nursing and operated under the authority of a public or nonprofit hospital licensed by the North Carolina

Medical Care Commission shall be distributed, upon application for financial assistance, on the basis of eight hundred fifty dollars ($850.00) for each full-time student duly enrolled in the program as of December 1 of the preceding year and on condition that accreditation is maintained. The State Board of Community Colleges shall make rules and regulations necessary to ensure that this financial assistance is used directly for faculty and instructional needs of diploma nursing programs.

(b) This section is effective July 1, 1983.

PART X.——HIGHER EDUCATION

——WAKE FOREST AND DUKE MEDICAL SCHOOL ASSISTANCE/FUNDING FORMULA

Sec. 107. Funds appropriated in Section 2 of this act to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be disbursed on certifications of the respective schools of medicine that show the number of North Carolina residents as first-year, second-year, third-year, and fourth-year students in the medical school as of November 1, 1983, and November 1, 1984. Disbursement to Wake Forest University shall be made in the amount of eight thousand dollars ($8,000) for each medical student who is a North Carolina resident, one thousand dollars ($1,000) of which shall be placed by the school in a fund to be used to provide financial aid to needy North Carolina students who are enrolled in the medical school. The maximum aid given to any student from this fund in a given year shall not exceed the amount of the difference in tuition and academic fees charged by the school and those charged at the School of Medicine at The University of North Carolina at Chapel Hill.

Disbursement to Duke University shall be made in the amount of five thousand dollars ($5,000) for each medical student who is a North Carolina resident, five hundred dollars ($500.00) of which shall be placed by the school in a fund to be used to provide student financial aid to financially needy North Carolina students who are enrolled in the medical school. No individual student shall be awarded assistance from this fund in excess of two thousand dollars ($2,000) each year. In addition to this basic disbursement for each year of the biennium, a disbursement of one thousand dollars ($1,000) shall be made for each medical student who is a North Carolina resident in the first-year, second-year, third-year and fourth-year classes to the extent that enrollment of each of those classes exceeds 30 North Carolina students.

The Board of Governors shall establish the criteria for determining the eligibility for financial aid of needy North Carolina students who are enrolled in the medical schools and shall review the grants or awards to eligible students. The Board of Governors shall promulgate regulations for determining which students are residents of North Carolina for the purposes of these programs. The Board shall also make any regulations as necessary to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes. The Board shall encourage the two schools to orient students towards personal health care in North Carolina giving special emphasis to family and community medicine.

——AID TO PRIVATE COLLEGES/PROCEDURE

Sec. 108. Funds appropriated in this act to the Board of Governors of The University of North Carolina for aid to private colleges shall be disbursed

in accordance with the provisions of G.S. 116-19, G.S. 116-21, and G.S. 116-22. These funds shall provide up to two hundred dollars ($200.00) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1 each year.

These funds shall be placed in a separate, identifiable account in each eligible institution's budget/chart of accounts. All funds in this account shall be provided as scholarship funds for needy North Carolina students during the fiscal year. Each student awarded a scholarship from this account shall be notified of the source of the funds and of the amount of the award. Funds not utilized under G.S. 116-19 shall be for the tuition grant program as defined in Section 109 of this act.

Sec. 109. In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to private educational institutions located within the State, or to students attending such institutions, there is granted to each full-time North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, the sum of seven hundred fifty dollars ($750.00) per academic year which shall be distributed to the student as hereinafter provided.

The tuition grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules and regulations promulgated by the State Education Assistance Authority not inconsistent with this act. The State Education Assistance Authority shall not approve any grant until it receives proper certification from an approved institution that the student applying for the grant is an eligible student. Upon receipt of the certification, the State Education Assistance Authority shall remit at such times as it shall prescribe the grant to the approved institution on behalf, and to the credit, of the student.

In the event a student on whose behalf a grant has been paid is not enrolled and carrying a minimum academic load as of the 10th classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and credited grants paid on the behalf of the students.

In the event there are not sufficient funds to provide each eligible student with a full grant, each eligible student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation. Any remaining funds shall revert to the General Fund.

——AID TO PRIVATE COLLEGES

Sec. 110. Expenditures made pursuant to Sections 108 and 109 of this act shall be used for secular educational purposes at nonprofit institutions of higher education only. Sections 108, 109 and 110 of this act are effective July 1, 1983.

——INTEREST PROCEEDS ON SALE OF UNIVERSITY UTILITIES

Sec. 111. Section 41.2 of Chapter 859 of the 1981 Session Laws is amended by deleting subsection (c) and adding in lieu of a new subsection (c) to read:

"All investment income earned on and after July 1, 1975, on the proceeds from the sale and lease of real and personal property disposed of pursuant to this act shall be credited to the General Fund of the State."

——NONRESIDENT TUITION SET BY BOARD OF GOVERNORS

Sec. 112. G.S. 116-144 is rewritten to read:

"§ 116-144. *Higher tuition to be charged nonresidents.*—The Board of Governors shall fix the tuition and required fees charged nonresidents of North Carolina who attend the institutions enumerated in G.S. 116-4 at rates higher than the rates charged residents of North Carolina and comparable to the rates charged nonresident students by comparable public institutions nationwide, except that a person who serves as a graduate teaching assistant or graduate research assistant or in a similar instructional or research assignment and is at the same time enrolled as a graduate student in the same institution may, in the discretion of the Board of Governors, be charged a lower rate fixed by the Board, provided the rate is not lower than the North Carolina resident rate."

——BOARD OF GOVERNORS/EXPENDITURES

Sec. 113. Effective July 1, 1983, G.S. 116-11(9)b. is rewritten to read:

"b. Funds for the continuing operation of each constituent institution shall be appropriated directly to the institution. Funds for salary increases for employees exempt from the State Personnel Act shall be appropriated to the board in a lump sum for allocation to the institutions. Funds for the third category in paragraph a. of this subdivision shall be appropriated to the Board in a lump sum. The Board shall allocate to the institutions any funds appropriated, said allocation to be made in accordance with the Board's schedule of priorities and in accordance with any specifications in the Budget Appropriation Act; provided, however, that when both the Board and the Director of the Budget (after the Director of the Budget consults with the Advisory Budget Commission) deem it to be in the best interest of the State, funds in the third category may be allocated, in whole or in part, for other items within the list of priorities or for items not included in the list. Provided, nothing herein shall be construed to allow the General Assembly, except as to Capital Improvements, to refer to particular constituent institutions in any specifications as to priorities in the third category."

——UNC TUITION INCREASE

Sec. 114. The appropriations in Section 2 of this act to the Board of Governors of The University of North Carolina and its constituent institutions anticipate actions by the Board of Governors to increase tuition at constituent institutions. The Board of Governors shall increase tuition so as to raise additional income of at least ten million dollars ($10,000,000) for each year of the fiscal biennium.

The Board of Governors shall use thirteen million eight hundred twenty-one thousand six hundred forty-three dollars ($13,821,643) of the funds appropriated to it in Section 2 of this act for items 2 through 4 of its "Schedule of Priorities-Operating."; it shall use the additional income from the tuition increase and funds appropriated to it in Section 2 for funding the remainder of the schedule of priorities in accordance with the provisions of G.S. 116-11(9)b. as amended by this act. The Board of Governors shall not use the funds appropriated to it in Section 2 of this act or the additional income from the tuition increase for item 1.

——BOARD OF GOVERNORS - AGRICULTURE PROGRAMS

Sec. 115. (a) The new funds, totalling one million two hundred thousand dollars ($1,200,000) in each year of the biennium, appropriated in Section 2 of this act to the Board of Governors, for North Carolina State University for Agricultural Programs, shall be expended as follows: (a) two hundred forty-two thousand nine hundred dollars ($242,900) to increase reproductive efficiency in poultry production; (b) two hundred sixty-one thousand eight hundred dollars ($261,800) for field crops production; (c) one hundred seventy-seven thousand three hundred dollars ($177,300) for forest resources, fisheries and wildlife; (d) one hundred thirty-nine thousand dollars ($139,000) for horticultural crops production; (e) sixty thousand dollars ($60,000) to the Department of Horticultural Science for apple research; (f) fifty thousand dollars ($50,000) to the Department of Plant Pathology for research on diseases of small fruits; (g) one hundred fifty-eight thousand seven hundred dollars ($158,700) for the operation of expanded beef cattle research facilities; (h) thirty-five thousand five hundred dollars ($35,500) for the operation of the bull testing facility; and (i) the balance of the funds as needed for other agricultural research programs as identified in the provisions of the Board of Governors Schedule of Priorities-Operating Expenses, except for priority item 1.

(b) This section is effective July 1, 1983.

——ECU MED SCHOOL/MEDICARE-MEDICAID REIMBURSEMENT

Sec. 116. The Medicare-Medicaid receipts being held in trust by Pitt County Memorial Hospital for the East Carolina University School of Medicine pending resolution of litigation between Pitt County Memorial Hospital and the Federal Medicare-Medicaid Program for the fiscal years October 1, 1978 - September 30, 1982, and each succeeding year thereafter, shall be distributed as follows: that portion of the Medicare-Medicaid reimbursement which can be identified as having been generated through the effort and expense of the School's Medical Faculty Practice Plan shall be transferred to the appropriate Medical Faculty Practice Plan account within the School; and the remainder shall be divided equally between the General Fund and the operating budget account of the School of Medicine. The funds deposited in the School's account shall be expended for nonrecurring items of equipment and facilities which are required to maintain the School's teaching facilities within Pitt County Memorial Hospital and the Brody Medical Sciences Building.

PART XI.——CULTURAL RESOURCES

——NORTH CAROLINA SYMPHONY/GRANT-IN-AID FUNDS

Sec. 117. As a condition of accepting State grant-in-aid funds for 1983-84 and 1984-85, the North Carolina Symphony shall operate within a balanced budget.

——SYMPHONY ENDOWMENT

Sec. 118. Of the funds appropriated in Section 2 of this act to the Department of Cultural Resources for the North Carolina Symphony Society, the sum of four hundred thousand dollars ($400,000) shall be placed in a special reserve account with the State Treasurer for each fiscal year in the 1983-85 fiscal biennium. These funds shall be held by the State Treasurer as a challenge to the North Carolina Symphony Society to establish an Endowment Account. These funds shall be transferred to the North Carolina Symphony Society, Inc., by the State Treasurer upon proof that the Society has raised qualifying cash-match dollars on a basis of three Society cash dollars to one State dollar. The

Society shall place the matching dollars in the Endowment Account and shall not expend any part of the principal in this account for any purpose.

Qualifying Society dollars are monies collected in the 1983-84 fiscal year and in the 1984-85 fiscal year and designated and retained as principal in the Endowment Account. Funds not qualifying as Symphony matching cash dollars eligible to draw State dollars are: Any funds or endowments on hand upon enactment of this legislation; funds collected on any unpaid pledges or commitments used by the Symphony to match State funds in 1982-83; earned revenue and sustaining fund contributions unless they are deposited to the Endowment Account and retained as principal therein.

These funds shall not become a part of the annual grant-in-aid to the North Carolina Symphony. Funds remaining in this special reserve account on June 30, 1985, shall revert to the General Fund.

PART XII.——NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

——FOREST FIRE FIGHTERS' OVERTIME PAY

Sec. 119. A new section is added to Chapter 113 of the General Statutes to read:

"§ 113-56.1. *Overtime compensation for forest fire fighting.*—The Department of Natural Resources and Community Development shall, within funds appropriated to the Department, provide overtime compensation to the professional employees of the Forest Resources Division involved in fighting forest fires."

——FOREST DEVELOPMENT ACT REPORT

Sec. 120. G.S. 113A-193(b) is amended by adding a new subdivision to read:

(5) By January 15 of each odd-numbered year, report to the General Assembly on the number of acres reforested, type of owners assisted, geographic distribution of funds, the amount of funds encumbered and other matters. The report shall include the information by forestry district and statewide and shall be for the two fiscal years prior to the date of the report.

——FORESTRY COUNTY COOPERATIVE PROGRAM STUDY

Sec. 121. The Department of Natural Resources and Community Development shall study its policies and rules on the counties' share for funding the County Cooperative Program in the Division of Forest Resources. The study should include at a minimum the percentage of program costs to be paid by counties and the criteria on which the percentages should be based. The Department shall report its findings and recommendations to the General Assembly by May 1, 1984.

——FORESTRY RADIO COMMUNICATIONS PILOT PROJECT

Sec. 122. The Division of Forest Resources in the Department of Natural Resources and Community Development shall undertake a pilot project to determine if improved radio communications increase the effective use of field personnel. The Division shall undertake the project with funds in its 1983-85 budget, and shall report back the results of the pilot project to the General Assembly by June 1, 1984.

——STATE PARKS AND RECREATION FIELD STAFF UTILIZATION

Sec. 123. Notwithstanding any limitations placed on funds appropriated in prior fiscal years for field staff for the Department of Natural Resources and Community Development, Division of Parks and Recreation, funds

appropriated in Section 2 of this act to the Department of Natural Resources and Community Development, Division of Parks and Recreation for field staff may be used by the Division to place its field staff wherever they are most needed.

——ADMINISTRATION OF COMMUNITY SERVICES BLOCK GRANT FUNDS

Sec. 124. Of the funds appropriated to the Department of Natural Resources and Community Development in Section 2 of this act, eighty-five thousand seven hundred seventeen dollars ($85,717) each year of the fiscal biennium shall be in a special reserve for use in administering the Community Services Block Grant funds. Unencumbered funds remaining in the reserve at the end of the fiscal biennium shall revert to the General Fund.

——COMMUNITY SERVICES BLOCK GRANT FUNDS

Sec. 125. The Department of Natural Resources and Community Development shall amend the State Plan for Administering Funds under the Community Services Block Grant for fiscal year 1984 so that:

(a) if federal law does not restrict funding to those agencies currently receiving funds, the Board of County Commissioners in any county not served by community services programs of a community action agency receiving Community Services Block Grant funds during the 1983 federal fiscal year is designated as eligible for fiscal year 1984 funding and may apply for a grant;

(b) if federal law does restrict funding to those agencies currently receiving funds, the Board of County Commissioners in any county not served by community services programs of a community action agency receiving Community Services Block Grant funds during the 1983 federal fiscal year may apply for membership in a Community Action Agency under the same requirements as member counties are currently meeting;

(c) Funds allocated to Community Action Agencies or county governments shall be distributed on a formula including as one factor an estimated ratio of persons in poverty in the area served by the applying agency compared to the poverty population in the total area served by all applying agencies. If funds for federal fiscal year 1984 are more than the eight million six hundred seven thousand two hundred fifty-eight dollars ($8,607,258) allocation for federal fiscal year 1983, special consideration for funding those counties not receiving funds during 1983 shall be included in the 1984 State Plan for allocating these funds.

——COMMUNITY DEVELOPMENT BLOCK GRANTS

Sec. 126. The Department of Natural Resources and Community Development shall study the following issues as related to the rules and regulations of the State-administered Community Development Block Grant programs:

(1) allowing counties to be compared to municipalities in the application evaluations;

(2) allowing the number of substandard housing units, the number of low income persons and other required measures to be presented and evaluated for the specific target area rather than for the entire area of the government submitting the application;

(3) the geographic distribution of the funds as compared to the geographic distribution of need as defined by the poverty and other measures used in the evaluation and application process;

(4) giving applications dealing with health and safety needs priority over applications dealing with purely recreational needs.

The results of this study shall be incorporated into the development of the State plan for making grants from the federal fiscal year 1984 funds and the results shall be distributed for public comment along with the proposed departmental rules and regulations for distributing the funds for federal fiscal year 1984.

——TRANSFER OF FUNDS TO THE WILDLIFE RESOURCES COMMISSION

Sec. 127. (a) Of the funds appropriated in Section 2 of this act to the Department of Natural Resources and Community Development in 1983-84 and 1984-85, the sum of nine hundred ninety thousand dollars ($990,000) each year shall be transferred to the Wildlife Resources Commission on condition that:

(1) No new positions shall be established with this appropriation or with funds freed from other uses by this appropriation.

(2) None of this appropriation shall be used for subsidizing the cost of the *Wildlife* magazine or any newsletter or publication published by the Wildlife Resources Commission.

(3) None of this appropriation shall be used for fox population studies including monitoring the status and trends of foxes in North Carolina.

(b) This section is effective July 1, 1983.

PART XIII.——COMMERCE

——ACCESS GUIDE FOR DISABLED

Sec. 128. (a) Of the funds appropriated in Section 2 of this act to the Department of Commerce, the sum of twelve thousand dollars ($12,000) for fiscal year 1983-84, and the sum of thirty-five thousand five hundred dollars ($35,500) for fiscal year 1984-85, shall be used to develop a vacation and travel guide for disabled persons and promote travel accessibility for them; and thereafter such funds as are necessary and justified for the further development, maintenance and updating of the guide, and promotion of accessibility of vacation and travel attractions as an ongoing part of the North Carolina Department of Commerce's travel and tourism outreach service. Those funds unexpended in fiscal year 1983-84 shall be carried forward into fiscal year 1984-85 to be used for the purposes referenced herein.

(b) This section is effective July 1, 1983.

——TOURISM GRANT LIMITATION

Sec. 129. The Department of Commerce may not grant more than five thousand dollars ($5,000) to any one grantee during a fiscal year to promote tourism. No grantee shall receive a grant in two consecutive fiscal years. All grants by the Department of Commerce to promote tourism shall be made on condition that the grantee match the grant on a dollar-for-dollar basis. Grants to promote tourism may not be used for the following purposes:

(1) capital construction;

(2) routine operating expenses normally paid by the grantee; or

(3) existing programs of the grantee.

——PETROLEUM OVERCHARGE FUNDS

Sec. 130. (a) The Department of Commerce shall distribute the four million three hundred ten thousand six hundred dollars ($4,310,600) received as petroleum overcharge funds in the following manner:

(1) The schools and hospital program shall receive one million five hundred sixty thousand six hundred dollars ($1,560,600). Funds not expended for this purpose during the 1983 federal funding cycle shall be available for expenditure during the 1984 federal funding cycle.

(2) The State energy conservation plan and energy extension service programs shall receive one million five hundred thousand dollars ($1,500,000). To the extent the federal government permits, the first priority for the use of these funds shall be on activities that encourage the use of the schools and hospitals programs and that benefit local school units such as school bus routing assistance, energy load management, outreach for and assistance with schools and hospitals program applications, and workshops for teachers on energy conservation and on the teaching of energy conservation.

(3) The weatherization program shall receive one million two hundred fifty thousand dollars ($1,250,000).

(b) Future allocations of petroleum overcharge funds that North Carolina receives shall be distributed first to the schools and hospitals program and then to the State energy conservation plan and energy extension service programs for the activities enumerated in subdivision (a)(2) of this section. Remaining funds shall be used for purposes permitted by the federal government.

——NORTH CAROLINA TOMORROW PROGRAMS

Sec. 131. (a) Of the funds appropriated in Section 2 of this act to the Department of Commerce for Grants for Area Development, the sum of two hundred fifty thousand dollars ($250,000) for the 1983-84 fiscal year and two hundred fifty thousand dollars ($250,000) for the 1984-85 fiscal year shall be transferred to the chief fiscal officer of Western Carolina University for disbursement in accordance with the plans developed by the Western North Carolina Tomorrow Program. The sum of one hundred thousand dollars ($100,000) for the 1983-84 fiscal year and one hundred fifty thousand dollars ($150,000) for the 1984-85 fiscal year shall be transferred to the chief fiscal officer of Elizabeth City State University for disbursement in accordance with plans developed for the Northeastern North Carolina Tomorrow Program.

(b) This section is effective July 1, 1983.

——UTILITIES COMMISSION OUTSIDE COUNSEL

Sec. 132. Compensation for outside legal fees in excess of twenty-five thousand dollars ($25,000) per year incurred by the North Carolina Utilities Commission on behalf of the using and consuming public in conjunction with natural gas litigation brought before federal courts and agencies shall be paid from refunds received from the Transcontinental Gas Pipeline Company rather than from the Contingency and Emergency Fund, provided that the agreement must be approved by the State Budget Office.

——ALE FUNDING FROM BAILMENT SURCHARGE

Sec. 133. (a) The second sentence of G.S. 18B-208(b) is amended by deleting the phrase "use of the Commission" and substituting the phrase "purpose of carrying out the provisions of this Chapter".

(b) The fourth sentence of G.S. 18B-208(b) is amended by inserting between the words "Commission" and "and" the phrase "and the ALE Division".

(c) The second paragraph of G.S. 18B-208(b) is amended by adding after the phrase "North Carolina ABC Commission" the phrase "and the Director of the Budget".

Sec. 134. The increase in the bailment surcharge needed to comply with G.S. 18B-208(b), as amended by this act, to include the operating expenses of the ALE Division shall be limited to an amount that covers only current operating expenses of the Division.

PART XIV.——TRANSPORTATION

——HIGHWAY REPAIR, MAINTENANCE AND CONSTRUCTION CONTRACT PILOT PROGRAM

Sec. 135. Notwithstanding the provisions of G.S. 136-28.1, the Department of Transportation may use on an experimental pilot program basis any method of contracting for highway construction, maintenance or repair work until June 30, 1985, provided: (1) the method to be used has been reviewed and approved by the Board of Transportation; (2) no bids or unacceptable bids for the work to be accomplished were received pursuant to G.S. 136-28.1(a); and (3) the total amount of all contracts entered into pursuant to this section shall not exceed ten million dollars ($10,000,000) during any fiscal year. The Department of Transportation shall submit quarterly reports to the Joint Legislative Commission on Governmental Operations summarizing the justification, the methods, and the results obtained from contracting pursuant to this section. A preliminary report shall be submitted by the Department no later than May 20, 1984, and a final report no later than March 1, 1985, to the General Assembly.

——DOT CULVERT INSTALLATION POLICY

Sec. 136. The Board of Transportation shall accomplish savings in the maintenance budgets by altering its policies on installation of driveway pipes. The Board shall establish a schedule for reimbursement of costs for commercial driveway pipe installation performed by State forces.

——TRANSFER OF MOTOR CARRIER SAFETY REGULATION

Sec. 137. The safety regulation of all motor carrier transportation services is transferred from the Utilities Commission, Department of Commerce, to the Division of Motor Vehicles, Department of Transportation. This transfer shall be a "type I transfer" as defined in G.S. 143A-6. The regulation of rates and market entry for motor carrier transportation services shall remain vested in the Utilities Commission. The agencies of State government affected by this transfer shall report to the 1984 Session of the General Assembly about any changes in the General Statutes required by this transfer.

Sec. 138. G.S. 62-281 is rewritten to read:

"§ 62-281. *Safety regulations applicable to motor carrier and private carrier vehicles.*—The Commissioner of Motor Vehicles may promulgate highway safety rules and regulations for all for-hire motor carrier vehicles and all private carrier vehicles engaged in interstate commerce and intrastate commerce over the highways of North Carolina whether common carriers, contract carriers, exempt carriers, or private carriers."

——RESURFACED ROADS MAY BE WIDENED

Sec. 139. Of the contract maintenance resurfacing program funds appropriated in Section 3 of this act to the Department of Transportation, an amount not to exceed ten percent (10%) of the Board of Transportation's

allocation of these funds may be used for widening existing narrow pavements that are scheduled for resurfacing.

——USE OF SALES TAX COLLECTED BY DIVISION OF MOTOR VEHICLES

Sec. 140. (a) Notwithstanding G.S. 105-164.4(1), the Department of Transportation may deduct and retain from the sales tax on motor vehicles pursuant to the subdivision an amount equal to the cost to the Division of collecting this tax, not to exceed four hundred seventy-five thousand dollars ($475,000) per year. The cost of collecting this tax shall be determined by the Secretary of Transportation, subject to the approval of the State Budget Officer. Notwithstanding G.S. 20-63(h), the cost of collection shall include an increase in the commission paid to branch agents of the Division to sixty-four cents (64¢) per transaction.

(b) This section shall become effective August 1, 1984.

——DRIVER TRAINING AND SAFETY EDUCATION

Sec. 141. G.S. 20-88.1 is rewritten to read:

"§ 20-88.1. *Driver training and safety education.*—(a) In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a program of driver education to be offered at the public high schools of this State for all persons of provisional license age. This program shall be made available to all physically and mentally qualified persons of provisional license age, including public school students, nonpublic school students and out-of-school youths under 18 years of age. The State Board of Education shall use for such purpose all funds appropriated to it for said purpose, and may use all other funds that become available for its use for said purpose. The drivers' education program established pursuant to this section shall include instructions on the rights and privileges of the handicapped and the signs and symbols used to assist the handicapped relative to motor vehicles, including the 'international symbol of accessibility' and other symbols and devices as provided in Article 2A of this Chapter. In addition, this program shall include at least six hours of instruction on the offense of driving while impaired and related subjects.

(b) The State Board of Education shall adopt a salary schedule for Driver's Education Training Instructors. No educational degree requirement may be a criterion used in setting salaries. The State Board of Education shall report the salary schedule and criteria developed for a drivers' education program to the 1983 General Assembly, Second Session 1984."

Any cash balance remaining in the special fund code 23520 at June 30, 1983, shall be liquidated to satisfy the requirements of G.S. 20-88.1 and then special fund code 23520 shall be abolished.

Sec. 142. Effective September 1, 1983, G.S. 20-87(5), as amended by Chapter 713 of the 1983 Session Laws, is further amended by deleting the figure "$17.00" and inserting in lieu thereof the figure "$20.00", and by deleting the figure "$20.00" and inserting in lieu thereof the figure "23.00".

Sec. 143. G.S. 20-87 is amended as follows:

(a) By substituting "seventy-eight dollars ($78.00)" for "seventy-five dollars ($75.00)" in subsection (1);

(b) In subsection (2) by substituting "$18.00", "22.00, and "26.00" for "$15.00, "19.00", and "23.00" in the column, and by substituting "Forty-one dollars ($41.00)" for "Thirty-eight dollars ($38.00)";

(c) In subsection (6) by substituting "nine dollars ($9.00)" and "sixteen dollars ($16.00)" respectively for "six dollars ($6.00)" and "thirteen dollars ($13.00)";

(d) In subsection (7) by substituting "thirty-eight dollars ($38.00)" for "thirty-five dollars ($35.00)";

(e) In subsection (8) by substituting "one hundred twenty-eight dollars ($128.00)" for "one hundred twenty-five dollars ($125.00)";

(f) In subsections (9) and (10) by substituting "seven dollars ($7.00)" for "four dollars ($4.00)";

(g) In subsection (10) by substituting "thirty-three dollars ($33.00)" for "thirty dollars ($30.00)"; and

(h) By adding a new subsection (11) to read: "(11) Any vehicle fee determined under this section according to the weight of the vehicle shall be increased by the sum of three dollars ($3.00) to arrive at the total fee."

Sec. 144. G.S. 20-88 is amended as follows:

(a) In subdivision (b)(1) by substituting "seventeen dollars and fifty cents ($17.50)" and "twenty-one dollars and fifty cents ($21.50)" respectively for "fourteen dollars and fifty cents ($14.50)" and "eighteen dollars and fifty cents ($18.50)";

(b) In subdivision (b)(6) by substituting "seventy-five dollars ($75.00)" and "one hundred forty-eight dollars ($148.00)" respectively for "seventy-two dollars ($72.00)" and "one hundred forty-five dollars ($145.00)";

(c) In subsection (c) by substituting "ten dollars ($10.00)" for "seven dollars ($7.00)"; and

(d) By adding a new subsection (i) to read: "(i) Any vehicle fee determined under this section according to the weight of the vehicle shall be increased by the sum of three dollars ($3.00) to arrive at the total fee."

Sec. 145. (a) G.S. 20-87(5) is amended by substituting "$16.00" and "19.00" respectively for "$13.00" and "16.00" in the column.

(b) This section is effective upon ratification, but shall expire on September 1, 1983.

——MOTOR VEHICLE FINANCIAL RESPONSIBILITY

Sec. 146. Effective August 1, 1984, G.S. 20-309(e) is amended to read:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the insurer shall notify the Division of such termination. The Division, upon receiving notice of cancellation or termination of an owner's financial responsibility as required by this Article, shall notify such owner of such cancellation or termination, and such owner shall within 15 days from date of the notice given by the Division, in order to retain the registration plate for the vehicle registered or required to be registered, certify to the Division that he has financial responsibility effective on or prior to the date of such termination.

Failure of the owner to certify that he has financial responsibility as herein required shall be *prima facie* evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be re-registered within less than 30 days after the date of receipt of the registration plate by the Division. Additionally, as a condition precedent to the registration of the vehicle, the payment of a restoration fee of fifty dollars ($50.00) and the appropriate fee for a new registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars ($200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division."

Sec. 147. Effective August 1, 1984, G.S. 20-311 is amended to read:

"§ 20-311. *Revocation of registration when financial responsibility not in effect.*—Upon receipt of evidence that financial responsibility for the operation of any motor vehicle registered or required to be registered in this State is not or was not in effect at the time of operation or certification that insurance was in effect, the Division shall revoke the owner's registration plate issued for the vehicle at the time of operation or certification that insurance was in effect or the current registration plate for the vehicle in the year registration has changed for 30 days.

The vehicle for which registration has been revoked pursuant to this section may be registered at the end of the 30-day revocation period upon certification of financial responsibility and payment by the vehicle owner of a fifty-dollar ($50.00) administrative fee in addition to appropriate license fees. In no event may such vehicle be registered prior to payment of the fifty dollar ($50.00) administrative fee."

Sec. 148. Effective September 1, 1983, G.S. 20-48 is amended by adding the following subsection thereto:

"(c) The Commissioner shall appoint such agents of the Division as may be needed to serve revocation notices required by this Chapter. The fee for service of a notice shall be fifty dollars ($50.00). Agents employed under this section to serve revocation notices full time, and any Law Enforcement Officer I whose duties include serving such notices on a regular basis, and the five law enforcement officers who supervise them, shall be exempt from the commuting fees provided in G.S. 143-341(8)(i)7a."

Sec. 149. Effective September 1, 1983, G.S. 20-26(c)(1) and (2) are amended to change the charge for license record copies from "3.00" to "4.00" and G.S. 20-26(c)(3) is amended to change the term "6.00" to "7.00".

Sec. 150. Of the funds appropriated to the Division of Motor Vehicles in Section 3 of this act, one million seventy-one thousand four hundred dollars ($1,071,400) in fiscal year 1983-84 and one million sixty-one thousand dollars ($1,061,000) in fiscal year 1984-85 shall be in a reserve for implementation of G.S. 20-48(c). An additional one million five hundred seventy-seven thousand dollars ($1,577,000) for fiscal year 1984-85 shall be in a reserve to supplement the vehicle registration functions in implementing the changes in G.S. 20-309(e) and G.S. 20-311 in Sections 146 and 147 of this act. Use of the funds in these reserves shall be subject to the approval of the Director of the Budget.

——DOT EXCEPTION TO VEHICLE POLICY INCREASED

Sec. 151. (a) The sixth sentence of the third paragraph of G.S. 143-341(8)(i)7a. is amended by deleting "350 employees" and "400 employees" and substituting "450 employees" and "500 employees" respectively.

(b) Prior to assigning any additional personnel, pursuant to the increased exception provided in G.S. 143-341(8)(i)7a. as amended by subsection (a) of this section, the Secretary of Transportation shall report to the Joint Legislative Commission on Governmental Operations about the nature and number of the assignments. The Secretary of Transportation shall report to the 1984 Regular Session of the General Assembly concerning the use of the increased exception and any necessity for extending the increase beyond June 30, 1984.

(c) The provisions of subsection (a) of this section shall be effective until June 30, 1984.

PART XV.——JUDICIAL

——DISTRICT ATTORNEYS' CONFERENCE CREATED

Sec. 152. (a) Subchapter VII of Chapter 7A of the General Statutes is amended by reserving G.S. 7A-409 and G.S. 7A-410 for future codification purposes at the end of Article 31 and by adding a new Article to read:

"ARTICLE 32.

"Conference of District Attorneys.

"§ 7A-411. *Establishment and purpose.*—There is created the Conference of District Attorneys of North Carolina, of which every district attorney in North Carolina is a member. The purpose of the Conference is to assist in improving the administration of justice in North Carolina by coordinating the prosecution efforts of the various district attorneys, by assisting them in the administration of their offices, and by exercising the powers and performing the duties provided for in this Article.

"§ 7A-412. *Annual meetings; organization; election of officers.*—(a) Annual Meetings. The Conference shall meet annually at a time and place selected by the President of the Conference.

(b) Election of Officers. Officers of the Conference are a President, a President-elect, a Vice-president, and other officers from among its membership that the Conference may designate in its bylaws. Officers are elected for one-year terms at the annual Conference, and take office on July 1 immediately following their election.

(c) Executive Committee. The Executive Committee of the Conference consists of the President, the President-elect, the Vice-president, and four other members of the Conference. One of these four members shall be the immediate past president if there is one and if he continues to be a member.

(d) Organization and Functioning; Bylaws. The bylaws may provide for the organization and functioning of the Conference, including the powers and duties of its officers and committees. The bylaws shall state the number of members required to constitute a quorum at any meeting of the Conference or the Executive Committee. The bylaws shall set out the procedure for amending the bylaws.

(e) Calling Meetings; Duty to Attend. The President or the Executive Committee may call a meeting of the Conference upon 10 days' notice to the members, except upon written waiver of notice signed by at least three-fourths of the members. A member should attend each meeting of the Conference and the Executive Committee of which he is given notice. Members are entitled to reimbursement for travel and subsistence expenses at the rate applicable to State employees.

"§ 7A-413. *Powers of Conference.*—(a) The Conference may:

(1) Cooperate with citizens and other public and private agencies to promote the effective administration of criminal justice.

(2) Assist prosecutors in the effective prosecution and trial of criminal offenses, and develop an advisory trial manual.

(3) Develop advisory manuals to assist prosecutors in the organization and administration of their offices, case management, calendaring, case tracking, filing, and office procedures.

(4) Cooperate with the Administrative Office of the Courts and the Institute of Government concerning education and training programs for prosecutors and staff.

(b) The Conference may not adopt rules pursuant to Chapter 150A of the General Statutes.

"§ 7A-414. *Executive Secretary; clerical support.*—The Conference may employ an executive secretary and any necessary supporting staff to assist it in carrying out its duties."

(b) The organizational meeting of the Conference shall be convened by the Director of the Administrative Office of the Courts as soon as feasible. Officers elected at that organizational meeting shall serve until their successors take office on July 1, 1984.

——UNIFORM CRIMINAL CALENDARING

Sec. 153. Effective October 1, 1983, G.S. 7A-49.3 is amended by adding a new subsection to read:

"(a1) If he has not done so before the beginning of each session of superior court at which criminal cases are to be heard, the District Attorney, after calling the calendar and disposing of nonjury matters, including guilty pleas, if any such nonjury matters are to be disposed of prior to the calling of cases for trial, shall announce to the court the order in which he intends to call for trial the cases remaining on the calendar. Deviations from the announced order require approval by the presiding judge, if the defendant whose case is called for trial objects; but the defendant may not object if all the cases scheduled to be heard before his case have been disposed of or delayed with the approval of the presiding judge or by consent."

——COMMUNITY SERVICE FOR PERSONS GUILTY OF DWI

Sec. 154. Effective October 1, 1983, Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-179.4. *Community service alternative punishment; responsibilities of the Department of Crime Control and Public Safety.*—(a) The Department of Crime Control and Public Safety must conduct a community service alternative punishment program for persons sentenced under G.S. 20-179(i), (j) or (k).

(b) The Secretary of Crime Control and Public Safety must assign at least one coordinator to each judicial district to assure and report to the court the person's compliance with the community service sentence. The appointment of each coordinator is subject to the approval of the chief district court judge. Each county must provide office space in the courthouse or other convenient place, necessary equipment, and secretarial service for the use of each coordinator assigned to that county.

(c) A fee of one hundred dollars ($100.00) must be paid by all persons serving a community service sentence. That fee must be paid to an official designated for that purpose and at the time and place specified by the Secretary of Crime

Control and Public Safety, except that if the clerk of court in which the person is convicted agrees to collect the fees, the clerk must collect all fees for persons convicted in that county. The fee must be paid in full within two weeks of the date the person is convicted and before he begins the community service unless the court, upon a showing of hardship by the person, allows the person additional time to pay the fee. If the person is also ordered to attend an Alcohol and Drug Education Traffic School established pursuant to G.S. 20-179.2, the fee for supervision of community service punishment is fifty dollars ($50.00).

(d) Fees collected under this section must be deposited in the General Fund.

(e) The coordinator must report to the court in which the community service sentence was ordered any failure by a person to comply with the terms of the sentence, and such a failure to comply constitutes a violation of a condition of probation."

Sec. 155. Effective October 1, 1983, G.S. 20-179.2 is amended by adding a new sentence to subdivision (a)(1) (redesignated subsection (c) by Section 30, Chapter 435, Session Laws of 1983) to read:

"If, however, the person is also ordered to serve a community service punishment under G.S. 20-179 and G.S. 20-179.4, the fee for enrollment in an Alcohol and Drug Education Traffic School program established pursuant to this section is fifty dollars ($50.00)."

Sec. 156. The Secretary of Crime Control and Public Safety may establish in his Department a Division of Victim and Justice Services, as permitted by the Executive Organization Act of 1973, and may employ, assign or reassign personnel and other resources of the Department to that Division to carry out effectively the alternative punishment and victim compensation programs vested in the Department.

——PAROLE CONSIDERATION HEARINGS IN ONSLOW COUNTY

Sec. 157. (a) From August 1, 1983, through July 31, 1985, G.S. 15A-1371(b)(2) is amended by inserting between the third and fourth sentences the following new sentence:

"If the prisoner was convicted of a crime that is the same or substantially similar to a crime classified under the Fair Sentencing Act as a Class A, B, C, or D felony, and if the senior resident regular superior court judge makes a written request therefor, the Parole Commission must conduct its consideration for parole in the county in which the prisoner was convicted."

(b) This section applies to Onslow County only.

——INDIGENT COUNSEL FEE FUND

Sec. 158. The funds appropriated to the Judicial Department in Section 2 of this act for payment of attorney fees and related expenses for indigent persons are in an entry entitled "The Indigent Persons Attorney Fee Fund." This shall be a nonreverting special fund. Except as explicitly provided in Sections 159, 160 and 161 of this act, or by any other act of the General Assembly this fund shall be used solely for the payment of attorneys' fees and related expenses for representation of indigent persons as specified in Subchapter IX of General Statutes Chapter 7A. The repayment of any attorney fees to the State by or on behalf of an indigent person as ordered by the Court or in satisfaction of a judgment rendered against the indigent person shall be paid into this fund.

——STATEWIDE GUARDIAN AD LITEM PROGRAM

Sec. 159. G.S. 7A-586 is amended by adding the following two sentences after the first sentence: "The appointment shall be made pursuant to the program established by Article 39 of this Chapter unless representation is otherwise provided pursuant to G.S. 7A-486 or G.S. 7A-487. In every case where a nonattorney is appointed as a guardian *ad litem*, an attorney shall be appointed in the case in order to assure protection of the child's legal rights within the proceeding."

Sec. 160. The following new Article is added to Chapter 7A of the General Statutes:

"Article 39.

"Guardian *Ad Litem* Program.

"§ 7A-484. *Office of Guardian Ad Litem Services established.*—There is established within the Administrative Office of the Courts an Office of Guardian *Ad Litem* Services to provide services in accordance with G.S. 7A-586 to abused and neglected juveniles involved in judicial proceedings, and to assure that all participants in these proceedings are adequately trained to carry out their responsibilities. Beginning on the effective date of this Article, and ending July 1, 1987, the Administrative Office of the Courts shall establish in phases a statewide guardian *ad litem* program comprised of local district programs to be established in all judicial districts of the State. Each local district program shall consist of volunteer guardians *ad litem*, at least one program attorney, a program coordinator who is a paid State employee, and such clerical staff as the Administrative Office of the Courts in consultation with the local district program deems necessary. The Administrative Office of the Courts shall promulgate rules and regulations necessary and appropriate for the administration of the program.

"§ 7A-485. *Implementation and administration.*—(a) Local District Programs. The Administrative Office of the Courts shall, in cooperation with each Chief District Court Judge and other district personnel, implement and administer the program mandated by this act. Local district programs shall be established in eight judicial districts in fiscal year 1983-84. Where a local district program has not yet been established in accordance with this Article, the district shall operate a guardian *ad litem* program approved by the Administrative Office of the Courts.

(b) Advisory Committee Established. The Director of the Administrative Office of the Courts shall appoint a Guardian *Ad Litem* Advisory Committee consisting of at least five members to advise the Office of Guardian *Ad Litem* Services in matters related to this program. The members of the Advisory Committee shall receive the same per diem and reimbursement for travel expenses as members of State boards and commissions generally.

"§ 7A-486. *Conflict of interest or impracticality of implementation.*—If a conflict of interest prohibits a local district program from providing representation to an abused or neglected juvenile, the court may appoint any member of the district bar to represent said juvenile. If the Administrative Office of the Courts determines that within a particular judicial district the implementation of a local district program is impractical, or that an alternative plan meets the conditions of G.S. 7A-487, the Administrative Office of the Courts shall waive the establishment of the program within the district.

"§ 7A-487. *Alternative plans.*—A district shall be granted a waiver from the implementation of a local district program if the Administrative Office of the Courts determines that the following conditions are met:

1. An alternative plan has been developed to provide adequate guardian *ad litem* services for every child consistent with the duties stated in G.S. 7A-586; and
2. The proposed alternative plan will require no greater proportion of State funds than the district's abuse and neglect caseload represents to the State's abuse and neglect caseload. Computation of abuse and neglect caseloads shall include such factors as child population, number of substantiated child abuse and neglect reports, number of child abuse and neglect petitions, number of abused and neglected children in care to be reviewed pursuant to G.S. 7A-657, nature of the district's caseload, and number of petitions to terminate parental rights.

When an alternative plan is approved pursuant to this section, the Administrative Office of the Courts shall retain authority to monitor implementation of the said plan in order to assure compliance with the requirements of this Article and G.S. 7A-586. In any district where the Administrative Office of the Courts determines that implementation of an alternative plan is not in compliance with the requirements of this section, the Administrative Office of the Courts may implement and administer a program authorized by this Article.

"§ 7A-488. *Civil liability of volunteers.*—Any volunteer participating in a judicial proceeding pursuant to the program authorized by this Article shall not be civilly liable for acts or omissions committed in connection with the proceeding if he acted in good faith and was not guilty of gross negligence."

Sec. 161. From funds appropriated by Section 2 of the 1983 Budget Appropriation Act to the Administrative Office of the Courts for its Legal Counsel Program are allocated funds not to exceed the sum of eight hundred three thousand nine hundred sixteen dollars ($803,916) for fiscal year 1983-84, and the sum of eight hundred forty-seven thousand nine hundred sixty dollars ($847,960) for fiscal year 1984-85 to implement these sections.

——MECKLENBURG PILOT PROGRAM FOR CUSTODY AND VISITATION DISPUTE MEDIATION

Sec. 162. (a) From January 1, 1984, through June 30, 1985, G.S. 50-13.1 is amended by designating the present language as subsection (a) and adding the following new subsections:

"(b) Whenever a petition for an order or modification of an order for custody or visitation of a child is contested, the matter shall be set for mediation of the contested issues before or concurrent with the setting of the matter for hearing. The purpose of the mediation is to reduce any acrimony that exists between the parties and to develop an agreement that is in the child's best interests. The mediator shall use his best efforts to effect a settlement of the custody or visitation dispute. Alimony, child support, and other economic issues may not be mediated.

(c) Each district court shall make available a mediator. The court may contract with practicing mediators. A mediator should be assigned to a particular court or judge.

(d) For a person to qualify to provide mediation services under this section, that person shall show that he:

(1) has a law degree, or at least a master's degree in psychology, social work, family counseling, or a comparable human relations discipline; and

(2) has at least 40 hours of training in mediation techniques by a qualified instructor of mediation. A qualified instructor of mediation is a professional who has provided mediation services for at least 30 cases, has publicly and explicitly identified his services to include mediation, and has the educational background stated in subsection (1). A counseling service is not a mediation service unless the derivation of a written settlement between disputants is the explicit objective of the service. Marital counseling, psychotherapy, and family therapy are not mediation services.

(e) Either party may move to have the mediation action dismissed and the action heard in district court, due to the mediator's bias, undue familiarity with a party, or other prejudicial ground.

(f) Mediation proceedings shall be held in private and shall be confidential. All verbal or written communications from either or both parties to the mediator or between the parties in the presence of the mediator made in a proceeding pursuant to this section are absolutely privileged and inadmissible in court.

(g) The mediator may exclude counsel from participation in the proceedings if the court finds that exclusion is appropriate. The mediator may assess the needs and interests of the child and may interview the child when he thinks appropriate.

(h) Any agreement reached by the parties as a result of the mediation shall be reported to the court and to counsel for the parties as soon as practicable. Unless the court finds good reason not to, it shall incorporate the agreement in a court order.

(i) The parties shall pay for these mediation services on an ability-to-pay basis. The Administrative Office of the Courts shall adopt rules establishing a schedule of fees for parties that shall encompass income, amount of alimony or child support paid, and other relevant economic variables."

(b) This section applies to Mecklenburg County only, which may establish a pilot program.

(c) Funds in the amount of fifty thousand dollars ($50,000) for the 1983-84 fiscal year are appropriated to the Judicial Department in Section 2 of this act to achieve the purposes of this section.

(d) This section shall be effective only when both parents are residents of Mecklenburg County.

——APPELLATE DEFENDER CASELOAD

Sec. 163. The second sentence of G.S. 7A-478(1) is revised to read:

"The Chief Justice may, following consultation with the appellate defender and consistent with the resources available to the appellate defender to insure quality criminal defense services by the appellate defender's office, authorize the appellate defender not to accept assignments of certain appeals but instead to cause those appeals to be assigned either to a local public defender's office or to private assigned counsel."

PART XVI——CRIME CONTROL AND PUBLIC SAFETY

——LICENSE PLATE STUDY

Sec. 164. The Department of Crime Control & Public Safety shall study the impact on highway safety of the use of non-reflectorized license plates and the requirement that each vehicle have two plates. The Department of Transportation shall provide all data necessary for the study to be conducted. The Department of Crime Control and Public Safety may submit a final report to the General Assembly by June 1, 1984, or it may submit an interim report to the General Assembly by June 1, 1984, and a final report by March 15, 1985, on its findings.

——BUTNER

Sec. 165. G.S. 122-98 is rewritten to read:

"§ 122-98. *Butner Public Safety Division of the Department of Crime Control and Public Safety; jurisdiction; fire and police district.*—(a) The Secretary of Crime Control and Public Safety is authorized to employ special police officers for the territory embraced by the John Umstead Hospital site and any property adjacent to that site which is owned or leased by the Department of Human Resources or any other agency of the State. The territorial jurisdiction of these special police officers shall include; (i) any property formerly a part of the original Camp Butner reservation, including both those areas currently owned and occupied by the State and its agencies and those which may have been leased or otherwise disposed of by the State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County adjoining the Butner reservation and the Lyons Station Sanitary District situated north and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those roads and the boundaries of said reservation and said sanitary district. The Secretary of Crime Control and Public Safety may organize these special police officers into a public safety department for that territory and may establish it as a division within the principal department as permitted by the Executive Organization Act of 1973.

(b) After taking the oath of office required for law enforcement officers, the special police officers authorized by this section shall have the authority of deputy sheriffs of Durham and Granville Counties in those counties respectively. Within the territorial jurisdiction stated in subsection (a) of this section, the special police officers shall have the primary responsibility to enforce the laws of North Carolina and any ordinance or regulation applicable to that territory adopted under authority of this Article or under G.S. 143-116.6 or G.S. 143-116.7 or under the authority granted any other agency of the State and shall also have the powers set forth for firemen in Articles 3, 5 and 6 of Chapter 69 of the General Statutes. Any civil or criminal process to be served on any person confined at any State facility within the territorial jurisdiction described in subsection (a) of this section shall be forwarded by the sheriff of the county in which the process originated to the Director of the Butner Public Safety Division. Special police officers authorized by this section shall be assigned to transport any patient transferred to or from any State facility within the territorial jurisdiction described in subdivision (a) of this section under the provisions of G.S. 122-13.1."

Sec. 166. The last sentence of G.S. 146-30 is amended by inserting between the words "provide" and "sewers" the words "water and".

——HIGHWAY PATROL GRADE CHANGE

Sec. 167. Effective July 1, 1983, the pay schedule established by the Office of State Personnel of the Department of Administration for sergeant, first sergeant and lieutenant of the State Highway Patrol is changed by increasing the salary grade at each level by one grade. The Director of the Budget may transfer from appropriations for this purpose in Section 3 of this act funds necessary to implement this section.

PART XVII——CORRECTION

——DEPARTMENT OF CORRECTION/LAUNDRY SERVICES

Sec. 168. G.S. 66-58(b)(16) is amended by adding the following sentence at the end of the first paragraph: "In addition to the prior sentence, laundry services performed by the Department of Correction may be provided for the Governor Morehead School and the North Carolina School for the Deaf."

PART XVIII——ATTORNEY GENERAL

——SUBMERGED LAND ATTORNEYS

Sec. 168.1. In Section 2 of this act there is appropriated to the Department of Justice for fiscal year 1983-84 the sum of ninety-nine thousand five hundred fifty-seven dollars ($99,557) to establish two attorney positions in the Department of Justice for the Environmental Protection Section which attorneys will be employed exclusively in the resolution of claims filed pursuant to G.S. 113-205 and to pay for support personnel, equipment, and related costs.

PART XIX——ADMINISTRATION

——COORDINATION OF MAPPING AND AERIAL PHOTOGRAPHY

Sec. 169. The Department of Administration and the Department of Natural Resources and Community Development shall actively seek full coordination of federal, State, and local mapping and aerial photography in an effort to reduce the total costs of mapping. Coordination shall include county and municipal governments, the United States Geological Survey, the United States Agricultural Stabilization and Conservation Services, the United States Soil Conservation Service, the State's Land Records Management Grants, the State's Soil Survey mapping, and other State-funded mapping efforts.

——PERSONNEL FOR SALE OF SWAMP LAND

Sec. 170. The salaries and employee benefits of the two employees of the Department of Administration, Real Property Office who administer and assist in the sale of swamp lands belonging to the State are costs of selling the swamp lands; therefore, these costs shall be funded from the receipts of the sale of the swamp lands. The net proceeds of the sale of the swamp lands shall be deposited in the State Literary Fund.

Notwithstanding the provisions of Article 32 of Chapter 115C of the General Statutes, in the event and to the extent that receipts from the sale of swamp lands are insufficient to cover the costs of selling the swamp lands belonging to the State, interest on funds in the State Literary Fund and interest on loans from the State Literary Fund shall not be deposited in the State Literary Fund but shall be used to fund said costs.

——TRANSFER FOR SURPLUS PROPERTY WAREHOUSE

Sec. 171. The Director of the Budget shall transfer from the Equipment Reserve Fund to the Department of Administration the sum of one hundred thousand dollars ($100,000) for the operation of the State Surplus Property Warehouse for fiscal year 1983-84.

——OIL RE-REFINING FACILITY

Sec. 172. The General Assembly urges the Department of Administration to sell the oil re-refining facility. The General Assembly finds that the State has initiated this innovative technology and should now turn it over to private enterprise.

——COMMUTING POLICY

Sec. 173. G.S. 143-348(8)i.7a. is amended by rewriting the first sentence of the third paragraph to read:

"Every individual who uses a State-owned passenger motor vehicle, pick-up truck, or van to drive between his official work station and his home, shall reimburse the State for these trips at the current motor pool rate established by the Department of Administration."

Sec. 174. The last sentence of the third paragraph of G.S. 143-348(8)i.7a. is amended by deleting "every 60 days" and inserting in lieu thereof "every 90 days".

Sec. 174.1. (a) Section 61, Chapter 1282, Session Laws of 1981 (Regular Session, 1982) is amended by deleting "1982-83 fiscal year", and inserting in lieu thereof "1983-85 biennium".

(b) This section is effective July 1, 1983.

——STATE-OWNED RENTAL HOUSING

Sec. 175. (a) The Department of Administration shall recommend a method for establishing statewide rental rates on the essential State-owned rental property that takes into consideration the age, construction, and condition of the housing unit; the fair market value of comparable privately owned housing units in the same locations as State-owned housing; and the benefit to the State, other than rental income, of renting to a State employee.

The Department shall submit its report to the Speaker of the House and the Lieutenant Governor no later than April 1, 1984.

(b) It is the policy of the State of North Carolina that the State provide rental housing only in cases in which an essential State purpose is served. State departments may continue to divest themselves of nonessential rental housing prior to the Department of Administration's recommendation or during any other authorized study.

PART XX——OFFICE OF THE GOVERNOR

——NEED BASED STUDENT LOANS

Sec. 176. G.S. 143-47.21 is amended by deleting "Medical Student Loans" and inserting in lieu thereof "Student Loans".

Sec. 177. G.S. 143-47.21 is further amended by adding immediately after the word "professionals" the words ", or leading to graduation as mathematicians or scientists".

Sec. 178. The catch line to Article 2D of Chapter 143 of the General Statutes is amended by deleting the word "Medical".

Sec. 179. G.S. 120-123(33a) is amended by deleting the word "Medical".

Sec. 180. G.S. 143-47.24 is amended in the first paragraph by adding new sentences to read: "The loans administered pursuant to this Article shall be repaid in a manner to be determined by the Board. There shall be no forgiveness of any portion of the loans."

Sec. 181. G.S. 143-47.24 is amended by adding the following sentences to the fourth paragraph: "The position of Executive Secretary to the Board shall be appointed by the State Budget Officer and is exempt from G.S. 126-5(a). The

compensation of the Secretary shall be fixed by the State Budget Officer after consultation with the Office of State Personnel."

Sec. 182. The Board for Need-Based Student Loans is directed to study the growth of eligible fields of study, make quarterly reports to the Joint Legislative Commission on Governmental Operations, and report its findings to the 1984 Session of the General Assembly. Such reports shall include, but not be limited to:

(1) A comparison of the public demand for fields of study deemed eligible by an Act of the General Assembly and those fields deemed eligible by the predecessor to the Board for Need-Based Student Loans;

(2) A complete justification of the need for continued funding of all eligible fields of study;

(3) The anticipated impact of eliminating the 11 fields of study made eligible for student loans by acts of the Medical Care Commission in administering the medical school student incentive loan program as it existed prior to July 1, 1982, pursuant to former G.S. 131-121 *et seq.*;

(4) The impact of the loan program on low income and minority students enrolled in eligible fields of study; and

(5) The impact of the loan program on securing health care professionals in medically underserved areas and on securing needed mathematicians and scientists. (Medically underserved should not be defined using current program regulations).

——STATE VEHICLE MAINTENANCE SYSTEM STUDY

Sec. 183. (a) The Office of State Budget and Management and the Division of Motor Fleet Management of the Department of Administration shall coordinate the work of a new Preventive Maintenance and Inventory Task Force. The Task Force shall consist of a representative from each of the following agencies to be appointed by that agency: Department of Transportation; Division of Highway Patrol, Department of Crime Control and Public Safety; Division of School Transportation, State Board of Education Controller's Office; Division of Motor Fleet Management, Department of Administration; and the Office of State Budget and Management. Appointments shall be made as soon as feasible and no later than August 1, 1983. The representative of the Office of State Budget and Management shall chair the Task Force.

The Task Force shall develop and install a common motor vehicle parts inventory and preventive maintenance system which shall at a minimum include:

(1) a common inventory catalogue and a core group of common data elements relating to vehicle maintenance and history;

(2) information at the individual garage level concerning inventory held elsewhere in the system;

(3) necessary management reports, including individual vehicle repair history;

(4) preventive maintenance scheduling based on standard work times derived from historical information or by other means;

(5) more accurate cost accounting within the agency motor vehicle and garage operations, including information that would ultimately allow a uniform charge system and permit cost-benefit analysis of using commercial facilities.

The Task Force shall make reports to the Joint Legislative Commission on Governmental Operations every 90 days and shall send copies of these reports to members of the Base Budget Subcommittee on State-Owned Garages. The Task Force shall make a final report to the 1983 General Assembly by submitting copies to the Base Budget chairmen and the members of the Subcommittee no later than June 1, 1984.

(b) The Office of Administrative Analysis, Department of Administration, shall develop data on the garages in the Departments of Agriculture, Natural Resources, Human Resources, Correction, Cultural Resources, and Justice and in The University of North Carolina System. This data shall at a minimum include number of personnel, cost of operation, inventory, purchasing procedures, number and type of vehicles and equipment owned and serviced, repair and maintenance policies, and garage size.

The Office of Administrative Analysis shall work with the Task Force to develop a comparable system of inventory control and preventive maintenance with the departments named in this subsection. That Office shall also develop, in coordination with the Task Force, a plan for consolidating garages or garage operations when it can document that consolidation would save money and make operations more efficient.

The Office of Administrative Analysis shall make reports to the Joint Legislative Commission on Governmental Operations every 90 days and shall send copies of these reports to members of the Base Budget Subcommittee on State-Owned Garages. The Office shall make a final report to the 1983 General Assembly by submitting copies to the Base Budget chairmen and the members of the Subcommittee no later than June 1, 1984.

(c) No new garages may be created and no existing garages may be consolidated before the final reports required by this section are filed.

(d) The Division of Purchase and Contract, Department of Administration, shall require that training for an appropriate number of mechanics be included as an item in all future requests for bids on motor vehicle contracts.

——NC SCHOOL OF SCIENCE AND MATHEMATICS

Sec. 184. G.S. 115C-223(a)(5) is amended by rewriting the second sentence as follows:

"One of these members shall be designated by the Governor as Chairman of the Board of Trustees."

——AGENCY RULES SUBMITTED TO THE DIRECTOR OF THE BUDGET

Sec. 185. G.S. 150A-11(4) is rewritten to read as follows:

"(4) With respect to all proposed rules requiring the expenditure or distribution of State funds, submit to the Director of the Budget a summary of the proposed rule or rules and obtain approval of such expenditure or distribution of State funds prior to publishing the notice of public hearing required by G.S. 150A-12(a). For purposes of this subdivision, 'State funds' shall have the same meaning as defined in G.S. 143-1 and shall also apply to the funding of all occupational licensing boards included under G.S. 150A-1. Any occupational licensing board that has proposed rules but has not filed the rules prior to the effective date of this section shall submit the rules to the Director of the Budget for approval."

——JAIL FACILITY GRANT-IN-AID

Sec. 186. (a) Funds are appropriated in Section 2 of this act in the amount of two hundred fifty thousand dollars ($250,000) for the 1983-84 fiscal year as a grant-in-aid for jail facilities at Ocracoke in Hyde County. These funds shall be allocated only upon the approval of the Director of the Budget and shall only be used for this purpose.

(b) This section is effective July 1, 1983.

PART XXI.—BOARD OF STATE CONTRACT APPEALS

Sec. 187. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 8A.

"Board of State Contract Appeals.

"§ 143-135.5. *Board of State Contract Appeals - creation; powers and duties.*—There is created the Board of State Contract Appeals with the authority to hear and decide appeals from the decisions of the Secretary of Administration made pursuant to G.S. 143-135.3, and the State Highway Administrator, made pursuant to G.S. 136-29, concerning claims raised under State construction contracts. Notice of the appeal shall be filed with the Board within 30 days after notice of a final decision by the agency head. Except as expressly provided otherwise in this Article, appeals to the Board shall be subject to Article 3 of Chapter 150A of the General Statutes.

"§ 143-135.6. *Board of State Contract Appeals - members; selection; quorum; compensation.*—(a) The Board of State Contract Appeals shall consist of five members with three appointed by the Governor and two appointed by the General Assembly.

(b) The Governor shall appoint three members not later than July 1, 1983. One of the three members appointed by the Governor shall be either experienced in building or highway construction or engaged in the business of general contracting. The first member shall serve until June 30, 1984, the second member shall serve until June 30, 1985, and the third member shall serve until June 30, 1986. Thereafter, the members of the Board appointed by the Governor shall serve four-year terms. The General Assembly shall appoint one member upon the recommendation of the President of the Senate and the General Assembly shall appoint one member upon the recommendation of the Speaker of the House of Representatives; these appointments shall be made in accordance with G.S. 120-121. The members appointed by the General Assembly shall serve until June 30, 1984. Thereafter, the appointment of their successors shall be for terms of two years.

(c) Any appointment to fill a vacancy on the Board created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. Members appointed by the General Assembly to fill vacancies shall be appointed in accordance with G.S. 120-122.

(d) The Governor shall have the right to remove any member for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13.

(e) The members of the Board shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and a salary of two hundred dollars ($200.00) per day when hearing appeals.

(f) The majority of the Board shall constitute a quorum for the transaction of business.

(g) All clerical and other services required by the Board shall be supplied by the Secretary of Administration.

(h) The Board shall promulgate rules and regulations governing the conduct of hearings which shall include the requirements that rules of evidence shall apply and that sworn testimony shall be received and recorded in a verbatim transcript prepared by a court reporter.

"§ 143-135.7. *Board of State Contract Appeals - officers.*—The Board of State Contract Appeals shall have a chairman and a vice-chairman. The chairman shall be appointed by the Governor from among the members of the Board and shall serve at his pleasure.

"§ 143-135.8. *Board of State Contract Appeals - meetings.*—The Board shall meet on the call of the chairman. The first meeting shall be held on or before January 1, 1984, and shall be for the purpose of promulgating rules and regulations consistent with this act.

"§ 143-135.9. *Appeals from the Board of State Contract Appeals.*—(a) No party to a proceeding before the Board may appeal from any final order or decision of the Board unless within 30 days after the entry of such final order or decision, the party aggrieved by such decision or order shall file with the Board notice of appeal and exceptions which shall set forth specifically the ground or grounds on which the aggrieved party considers said decision or order to be unlawful, unjust, unreasonable or unwarranted, and including errors alleged to have been committed by the Board.

(b) Any party may appeal from all or any portion of any final order or decision of the Board in the manner herein provided. Copy of the notice of appeal shall be mailed by the appealing party at the time of filing with the Board, to each party to the proceeding to the addresses as they appear in the files of the Board in the proceeding. The failure of any party, other than the Board, to be served with or to receive a copy of the notice of appeal shall not affect the validity or regularity of the appeal.

(c) The Board may on motion of any party to the proceeding or on its own motion set the exceptions to the final order upon which such appeal is based for further hearing before the Board.

(d) The appeal shall lie to the Court of Appeals as provided in G.S. 7A-29. The procedure for the appeal shall be as provided by the rules of appellate procedure.

(e) The Court of Appeals shall hear and determine all matters arising on such appeal, as in this Article provided, and may in the exercise of its discretion assign the hearing of said appeal to any panel of the Court of Appeals.

"§ 143-135.10. *No evidence admitted on appeal; remission for further evidence.*—No evidence shall be received at the hearing on appeal to the Court of Appeals but if any party shall satisfy the court that evidence has been discovered since the hearing before the Board of State Contract Appeals that could not have been obtained for use at that hearing by the exercise of reasonable diligence, and will materially affect the merits of the case, the court may, in its discretion, remand the record and proceedings to the Board with directions to take such subsequently discovered evidence, and after consideration thereof, to make such order as the Board may deem proper, from which order an appeal shall lie as in the case of any other final order from which an appeal may be taken as provided in G.S. 143-135.9.

"§ 143-135.11. *Record on appeal; extent of review.*—(a) On appeal the court shall review the record and the exceptions and assignments of error in accordance with the rules of appellate procedure, and any alleged irregularities in procedures before the Board of State Contract Appeals, not shown in the record, shall be considered under the rules of appellate procedure.

(b) So far as necessary to the decision and where presented, the court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning and applicability of the terms of any Board action. The court may affirm or reverse the decision of the Board, declare the same null and void, or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the appellants have been prejudiced because the Board's findings, inferences, conclusions or decisions are:

(1) In violation of constitutional provisions; or

(2) In excess of statutory authority or jurisdiction of the Board; or

(3) Made upon unlawful proceedings; or

(4) Affected by other errors of law; or

(5) Unsupported by competent, material and substantial evidence in view of the entire record as submitted; or

(6) Arbitrary or capricious.

(c) In making the foregoing determinations, the court shall review the whole record or such portions thereof as may be cited by any party and due account shall be taken of the rule of prejudicial error. The appellant shall not be permitted to rely upon any grounds for relief on appeal which were not set forth specifically in his notice of appeal filed with the Board.

"§ 143-135.12. *Relief pending review on appeal.*—Pending judicial review, the Board of State Contract Appeals is authorized, where it finds that justice so requires, to postpone the effective date of any action taken by it. Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, a judge of the Court of Appeals is authorized to issue all necessary and appropriate process to postpone the effective date of any action by the Board or take such action as may be necessary to preserve status or rights of any of the parties pending conclusion of the proceedings on appeal. The court may require the applicant for such stay to post adequate bond as required by the court.

"§ 143-135.13. *Appeal to Supreme Court.*—In all appeals heard in the Court of Appeals, any party may file a motion for review in the Supreme Court of the decision of the Court of Appeals under G.S. 7A-31, and in cases entitled to be appealed as a matter of right under G.S. 7A-30 any party may appeal to the Supreme Court from the decision of the Court of Appeals under the same rules and regulations as are prescribed by law for appeals, and such court may advance the cause on its docket.

"§ 143-135.14. *Judgment on appeal enforced by mandamus.*—In all cases in which, upon appeal, an order or decision of the Board of State Contract Appeals is affirmed, in whole or in part, the appellate court may include in its decree a mandamus to the appropriate party to put said order in force, or so much thereof as shall be affirmed or the appellate court may make such other order as it deems appropriate.

"§ 143-135.15. *Peremptory mandamus to enforce order when no appeal.*—(a) If no appeal is taken from an order or decision of the State Board of Contract Appeals within the time prescribed by law and the person to which the order or

decision is directed fails to put the same in operation, as therein required, the Board may apply to the judge regularly assigned to the superior court district which includes Wake County, or to the resident judge of said district at chambers upon 10 days' notice, for a peremptory mandamus upon said person for the putting in force of said order or decision; and if said judge shall find that the order of said Commission was valid and within the scope of its powers, he shall issue such peremptory mandamus.

(b) An appeal shall lie to the Court of Appeals in behalf of the Board or the defendant, from the refusal or the granting of such peremptory mandamus. The remedy prescribed in this section for enforcement of orders of the Board is in addition to other remedies prescribed by law."

Sec. 188. G.S. 7A-29 is amended by adding immediately after the words "the Property Tax Commission pursuant to G.S. 105-290 and 105-342," the words "the Board of State Contract Appeals pursuant to G.S. 143-135.9,".

Sec. 189. G.S. 7A-31(a) is amended by adding immediately after the words "the Property Tax Commission pursuant to G.S. 105-345," the words and punctuation "the Board of State Contract Appeals pursuant to G.S. 143-135.9,".

Sec. 190. G.S. 143-135.3 is amended by adding a new paragraph between the third and fourth paragraphs thereof to read as follows:

"Alternatively, in lieu of instituting a civil action in a superior court, the contractor may, as to the portion of the claim which may be denied by the Secretary of Administration, within 30 days from receipt of the decision, appeal the decision to the Board of State Contract Appeals as provided in G.S. 143-135.5."

G.S. 143-135.3 is further amended by adding the words "or the filing of a notice of appeal to the Board of State Contract Appeals" following the word "court" at the end of the second line of the fourth paragraph thereof.

Sec. 191. G.S. 136-29 is amended by renumbering subsections (d) and (e) as subsections (e) and (f) respectively, and by adding a new subsection (d) to read:

"(d) Alternatively, in lieu of instituting a civil action in superior court pursuant to subsection (b) above, the contractor may, as to the portion of the claim as is denied by the State Highway Administrator, within 30 days from receipt of the decision, appeal the decision to the Board of State Contract Appeals as provided in G.S. 143-135.5."

G.S. 136-29 is further amended in subsection (e) as renumbered above on line 4 by adding the following between the words "section" and "shall": "or the filing of a notice of appeal to the Board of State Contract Appeals as set out in subsection (d)".

Sec. 192. Sections 187, 188, 189, 190, 191, and 192 are effective upon ratification and shall apply to decisions made by the Secretary of Administration and the State Highway Administrator on or after January 1, 1984.

PART XXII.——SALARY, RETIREMENT, AND EMPLOYEE BENEFITS ——MOST STATE EMPLOYEES/FIVE PERCENT SALARY INCREASE

Sec. 193. (a) The salaries in effect on June 30, 1983, for all permanent State employees paid from the General Fund or the Highway Fund shall be increased on July 1, 1983, by an average of five percent (5%) rounded to conform to the steps in the salary ranges which the State Personnel Commission adopts. If the salary in effect on June 30, 1983, for an employee is not equal to a specific pay rate in the salary schedule effective on that date, his annual increase shall

be five percent (5%) with the annual salary adjusted so as to be divisible by twelve. The Director of the Budget is authorized to transfer from the salary reserve fund created in Sections 2 and 3 of this act for this purpose all funds necessary for the five percent (5%) average increase, including funds for the employer's retirement and Social Security contributions.

Except as otherwise provided in this act, the salaries of State officials, department secretaries, and persons in exempt positions which are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased an average of five percent (5%) commencing July 1, 1983. The Director of the Budget is authorized to transfer from the salary reserve fund created in Sections 2 and 3 of this act for this purpose all funds necessary for the five percent (5%) average increase, including funds for the employer's retirement and Social Security contributions.

The Director of the Budget is authorized to allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase averaging five percent (5%), including funds for the employer's retirement and Social Security contributions, for the employees of the agency, provided that the employing agency elects to make available the necessary funds.

The Director of the Budget is authorized to promulgate special rules and regulations to apply to salary increases for employees whose salaries are paid from interagency receipts where payments for the services of those employees originate from State appropriations to the end that the effective purchasing power of the appropriations is not materially reduced as a result of these salary increases. The salary increase may average up to five percent (5%), and funds made available for it shall include amounts necessary for the increase and the employer's retirement and Social Security contributions. Any questions as to the applicability of the provisions of this paragraph shall be resolved by the Director of the Budget.

The salaries of all permanent public school employees paid from allocations to local school units for State Aid-Exceptional Children ADM appropriation, Health Education Coordinator grants, Community Schools Coordinator grants, Vocational Education State Aid Non-Matching Expansion ADM allocation, Vocational Education State Aid Extended Day ADM allocations and State-matching funds for School Food Service Supervisors shall be increased by an average of five percent (5%) commencing July 1, 1983. The Director of the Budget is authorized to transfer from the salary reserve fund created in Section 2 of this act for legislative salary increases for public school employees all funds necessary for the five percent (5%) salary increase including funds for the employer's retirement and Social Security contributions.

Salaries for positions which are funded partially from the General Fund and partially from sources other than the General Fund shall be increased from the General Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund.

The granting of the legislative salary increases under this section does not affect the status of eligibility for salary increments for which employees may be eligible.

The salary range maximums for all employees under the State Personnel Act shall be increased to accommodate the legislative salary increase so that

every employee will continue to have the same relative position with respect to salary increases and future increments as he would have had if the legislative salary increases had not been made.

The salary increases provided in this act to be effective July 1, 1983, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement whose last workday is prior to July 1, 1983.

Any remaining appropriations for legislative salary increases not required for that purpose may be used to supplement the Salary Adjustment Fund.

Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments are authorized to increase on an equitable basis the rate of pay of temporary State employees, subject to availability of funds in the particular agency or department by pro rata amounts approximately equal to five percent (5%) commencing July 1, 1983.

(b) This section is effective July 1, 1983.

——GOVERNOR/SALARY

Sec. 194. Effective July 1, 1983, the first sentence of G.S. 147-11 is rewritten to read:

"The salary of the Governor shall be sixty thousand seven hundred sixty-eight dollars ($60,768) per annum, payable monthly."

Sec. 195. Effective January 1, 1985, the first sentence of G.S. 147-11 is rewritten to read:

"The salary of the Governor shall be eighty-five thousand dollars ($85,000) per annum, payable monthly."

——LEGISLATIVE EMPLOYEES/FIVE PERCENT SALARY INCREASE

Sec. 196. (a) The Legislative Services Officer may increase the salaries of nonelected employees of the General Assembly in effect on June 30, 1983, by five percent (5%) commencing July 1, 1983, rounded to the nearest whole dollar figure divisible by 12 and otherwise adjusted to conform with the relative levels of the Legislative Services Commission salary schedule. The granting of this legislative percentage salary increase does not affect the status of employees' eligibility for other salary increments. Funds in the salary reserve fund created in Section 2 of this act shall provide the salary increase authorized by this section, including the employer's retirement and Social Security contributions.

(b) This section is effective July 1, 1983.

——GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

Sec. 197. Effective July 1, 1983, G.S. 120-37(c) is amended by deleting the phrase "twenty-five thousand seven hundred sixteen dollars ($25,716)" and substituting the phrase "twenty-seven thousand twelve dollars ($27,012)" in lieu thereof.

——JUDICIAL BRANCH OFFICIALS/SALARIES

Sec. 198. (a) The annual salary, in fiscal years 1983-85, of the specified judicial branch officials is as follows:

Judicial Branch Officials	1983-85
Chief Justice, Supreme Court	$61,128
Associate Justice, Supreme Court	59,868
Chief Judge, Court of Appeals	57,948
Judge, Court of Appeals	56,676
Judge, Senior Regular Resident Superior Court	51,984

Judge, Superior Court	50,328
Chief Judge, District Court	42,372
Judge, District Court	40,752
District Attorney	46,812
Assistant District Attorney - an average of	30,276
Administrative Officer of the Courts	53,496
Assistant Administrative Officer of the Courts	38,208
Public Defender	46,812
Assistant Public Defender - an average of	30,276

If an acting senior regular resident superior court judge is appointed under the provisions of G.S. 7A-41, he shall receive the salary for Judge, Senior Regular Resident, Superior Court, and the judge he replaces shall receive the salary indicated for Judge, Superior Court.

The district attorney or public defender of a judicial district with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed thirty thousand two hundred seventy-six dollars ($30,276) and the minimum salary of any assistant district attorney or assistant public defender is at least fifteen thousand two hundred eighty-eight dollars ($15,288) per annum.

Funds in the salary reserve fund created in Section 2 of this act for salary increases and related employer's retirement and Social Security contributions for permanent employees of the Judicial Department, except for those itemized in this act, shall provide salary increases commencing July 1, 1983, of the same percentage as that authorized in Section 2 of this act for State employees subject to the Personnel Act, rounded to conform to the steps in the salary ranges adopted by the Judicial Department.

(b) This section is effective July 1, 1983.

——MAGISTRATES/SALARIES

Sec. 199. Effective July 1, 1983, the schedule of salaries of full-time magistrates shown in the table in subdivision (1) of G.S. 7A-171.1 is deleted and the following schedule is substituted:

Number of prior years of service	Annual salary
Less than 1	$ 10,440
1 or more but less than 3	11,340
3 or more but less than 5	12,396
5 or more but less than 7	13,572
7 or more but less than 9	14,760
9 or more	16,152

——CLERKS OF COURT/SALARIES

Sec. 200. Effective July 1, 1983, the schedule of salaries of clerks of superior courts beginning on line 5 of G.S. 7A-101 is deleted and the following schedule is substituted:

Population	Salary
Less than 19,999	$ 21,024

20,000 to 49,999	24,852
50,000 to 99,999	28,668
100,000 to 199,999	32,484
200,000 and above	39,492

——COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

Sec. 201. (a) The Director of the Budget may transfer from the salary reserve fund created in Section 2 of this act funds necessary to provide an annual average salary increase of five percent (5%), and the employer's retirement and Social Security contributions, commencing July 1, 1983, for all community college institutional personnel. These funds shall be allocated to individuals according to rules and regulations established by the State Board of Community Colleges and may not be used for any purpose other than for the salary increases and necessary employer's contributions.

(b) This section is effective July 1, 1983.

——HIGHER EDUCATION ACADEMIC PERSONNEL/SALARY INCREASES

Sec. 202. (a) Funds are provided in Section 2 of this act for fiscal year 1983-84 (to be continued for fiscal year 1984-85) in an amount in the equivalent of a five percent (5%) across-the-board salary increase to be used in lieu of automatic and merit salary increases and longevity pay for employees of The University of North Carolina who are exempt from the State Personnel Act. Funds appropriated for this purpose are to be allocated to individuals in accordance with rules and regulations established by the Board of Governors and may not be used to establish any new positions.

(b) This section is effective July 1, 1983.

——LEGISLATORS SALARIES INCREASED NO MORE THAN STATE EMPLOYEES

Sec. 203. G.S. 120-3 is rewritten effective upon convening of the 1985 Regular Session of the General Assembly to read:

"(a) The Speaker of the House shall be paid an annual salary of twenty thousand dollars ($20,000) payable monthly and an expense allowance of seven hundred dollars ($700.00) per month. The President Pro Tempore of the Senate, the Speaker Pro Tempore of the House, the minority leader in the House, and the majority and minority leader in the Senate shall each be paid an annual salary of nine thousand five hundred forty dollars ($9,540), payable monthly, and an expense allowance of two hundred fifty-three dollars ($253.00) per month.

(b) Every other member of the General Assembly shall receive increases in annual salary and expense allowances only to the extent of and in the percentage equal to those received by employees of the State as general across-the-board pay increases, effective upon convening of the next regular session of the General Assembly after enactment of such percentage increase. Accordingly, upon convening of the 1985 Regular Session of the General Assembly, every other member of the General Assembly shall be paid an annual salary of seven thousand six hundred thirty-two dollars ($7,632), payable monthly, and an expense allowance of one hundred ninety dollars ($190.00) per month.

(c) The salary and expense allowances provided in this section are in addition to any per diem compensation and any subsistence and travel allowance authorized by any other law with respect to any regular or extra session of the

General Assembly, and service on any State board, agency, commission, standing committee and study commission."

——COUNCIL OF STATE/SALARIES

Sec. 204. (a) The annual salaries of the Council of State, payable monthly, for fiscal years 1983-85, shall be as follows:

	1983-85
Lieutenant Governor	$50,328
Attorney General	53,976
Secretary of State	50,328
State Treasurer	50,328
State Auditor	50,328
Superintendent of Public Instruction	53,976
Agriculture Commissioner	50,328
Insurance Commissioner	50,328
Labor Commissioner	50,328

(b) This section is effective July 1, 1983.

Sec. 205. Whereas it is the opinion of the General Assembly that all salaries of Council of State members other than the Governor should be equal, or that criteria for the setting of salary for each officer shall be established based on the responsibilities of each office or other factors deemed appropriate, to that end, the salaries of the Attorney General and the Superintendent of Public Instruction shall remain at fifty-three thousand nine hundred seventy-six dollars($53,976), and the others set at fifty thousand three hundred twenty-eight dollars ($50,328), as provided in the previous section in an effort to equalize these salaries until criteria is set to justify differences. This section is effective July 1, 1983.

Sec. 206. Effective July 1, 1983, G.S. 58-6 is amended to read as follows:

"§ 58-6. *Salary of Commissioner of Insurance.*—The salary of the Commissioner of Insurance shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 207. Effective July 1, 1983, the second sentence of G.S. 95-2 is amended to read as follows:

"The term of office of the Commissioner of Labor shall be four years, and the salary of the Commissioner of Labor shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 208. Effective July 1, 1983, G.S. 106-11 is amended to read as follows:

"§ 106-11. *Salary of Commissioner of Agriculture.*—The salary of the Commissioner of Agriculture shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 209. Effective July 1, 1983, G.S. 114-7 is amended to read as follows:

"§ 114-7. *Salary of the Attorney General.*—The salary of the Attorney General shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 210. Effective July 1, 1983, G.S. 115C-20 is amended to read as follows:

"§ 115C-20. *Office and salary.*—The Superintendent of Public Instruction shall keep his office in the Education Building in Raleigh, and his salary shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 211. Effective July 1, 1983, the first sentence of G.S. 147-33 is amended to read as follows:

"The salary of the Lieutenant Governor shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 212. Effective July 1, 1983, G.S. 147-35 is amended to read as follows:

"§ 147-35. *Salary of Secretary of State.*—The salary of the Secretary of State shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 213. Effective July 1, 1983, G.S. 147-55 is amended by deleting the words: "the same as for superior court judges as".

Sec. 214. Effective on the effective date of that section G.S. 147-64.1 is amended to read as follows:

"§ 147-64.1. *Salary of State Auditor.*—(a)The salary of the State Auditor shall be set by the General Assembly in the Budget Appropriation Act.

(b) This section is effective only if G.S. 147-64.1 is enacted by the General Assembly in House Bill 517, 1983 Session."

Sec. 215. Effective July 1, 1983, G.S. 147-65 is amended to read as follows:

"§ 147-65. *Salary of State Treasurer.*—The salary of the State Treasurer shall be as established in the Budget Appropriation Act."

——MISCELLANEOUS SALARIES

Sec. 216. (a) Pursuant to the Separation of Powers Act of 1983, the annual salaries, payable monthly, for fiscal years 1983-85 for the following State officials are:

	1983-85
Chairman, Alcoholic Beverage Control Commission	$ 48,408
Commissioner of Motor Vehicles	47,712
Commissioner of Banks	48,408
Deputy Banking Commissioner	37,008
Chairman, Employment Security Commission	48,408
President, Department of Community Colleges	63,684
State Personnel Director	51,636
State Highway Administrator	50,556
Chairman, Parole Commission	44,172
Members of the Parole Commission	40,752
Chairman, Industrial Commission	43,452
Members of the Industrial Commission	42,396
Executive Director, Agency for Public Telecommunications	40,750
Director, Seafood Industrial Park Authority	29,784
General Manager, Ports Railway Commission	36,750

(b) This section is effective July 1, 1983.

——FREEZE CONTINUED

Sec. 217. Notwithstanding the provisions of Section 19.1 of Chapter 1137 of the 1979 Session Laws as amended by Chapter 1053 of the 1981 Session Laws, G.S. 115C-12(9)a., G.S. 126-7, or any other provision of law, no employee or officer of the public school system shall receive an automatic increment, and no State employee or officer shall receive a merit increment during the 1983-84 fiscal year, except as otherwise permitted by this act. This section is effective July 1, 1983, and expires June 30, 1984.

——COST-OF-LIVING ADJUSTMENTS FOR RETIREES/TEACHERS, STATE EMPLOYEES, LAW OFFICERS, JUDGES, SOLICITORS, SUPERIOR COURT CLERKS

Sec. 218. G.S. 135-5(o) is amended by adding a new paragraph to read:

"Notwithstanding the above paragraphs, retired members and beneficiaries may receive cost-of-living increases in retirement allowances if active members of the system receive across-the-board cost-of-living salary increases. Such increases in post-retirement allowances shall be comparable to cost-of-living salary increases for active members in light of the differences between the statutory payroll deductions for State retirement contributions, Social Security taxes, State income withholding taxes, and federal income withholding taxes required of each group. The increases for retired members shall include the cost-of-living increases provided in this section. The cost-of-living increases allowed retired and active members of the system shall be comparable when each group receives an increase that has the same relative impact upon the net disposable income of each group.

——COST-OF-LIVING ADJUSTMENTS FOR RETIREES/TEACHERS, STATE EMPLOYEES, LAW OFFICERS, JUDGES, SOLICITORS AND SUPERIOR COURT CLERKS.

Sec. 219. Effective July 1, 1983, G.S. 135-5 is amended by the addition of a new subsection designated as "(gg)" to read:

"(gg) From and after July 1, 1983, the retirement allowance to or on account of beneficiaries on the retirement rolls as of July 1, 1982, shall be increased by two and one-half percent (2.5%) of the allowance payable on July 1, 1982, provided the increase in retirement allowances shall be payable in accordance with all requirements, stipulations and conditions set forth in subsection (o) of this section, plus an additional one and one-half percent (1.5%) of the allowance payable on July 1, 1982, in order to supplement the increase payable in accordance with subsection (o) of this section."

Sec. 220. Effective July 1, 1983, G.S. 143-166 is amended by adding a new subsection (x7) to read:

"(x7) From and after July 1, 1983, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1982, shall be adjusted by an increase of four percent (4%)."

Sec. 221. Effective July 1, 1983, G.S. 135-65 is amended by the addition of a new subsection designated as "(d)" to read:

"(d) Increases in Benefits Paid to Members Retired Prior to July 1, 1982. From and after July 1, 1983, the retirement allowance to or on account of beneficiaries on the retirement rolls as of July 1, 1982, shall be increased by four percent (4%) of the allowance payable on July 1, 1982, provided the increase in retirement allowances shall be payable in accordance with all requirements, stipulations and conditions set forth in subsection (a) of this section."

——UNREDUCED RETIREMENT ALLOWANCE/TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

Sec. 222. Notwithstanding the provisions of Chapter 135 of the General Statutes, any member of the Teachers' and State Employees' Retirement System who is at least 60 years of age with 25 or more years of creditable service at retirement shall be entitled to an unreduced service retirement allowance based upon the number of years of creditable service at the time of retirement. For each month that this unreduced service retirement precedes a member's 65th birthday, or the completion of 30 years of creditable service, whichever is smaller, a member's employer shall pay to the Board of Trustees of the Teachers' and State Employees' Retirement System, on a one-time basis, an amount equal to one-half of one percent (1/2 of 1%) multiplied by the highest annual salary paid to the member during the last consecutive four years of service. The additional one-time employer cost shall be provided by available salary reserves resulting from employee turnover. This section is effective July 1, 1983, shall be effective only through June 30, 1985, and shall be applicable to those members whose retirement becomes effective before July 1, 1985.

——CODIFICATION OF AND AUTHORITY TO PAY SPECIAL PENSIONS FROM THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

Sec. 223. Effective July 1, 1983 G.S. 135-14 is rewritten to read:

"§ 135-14. *Pensions of certain former teachers and State employees.*—On and after July 1, 1983, special pensions and allowances of certain former teachers and State employees shall be paid out of the Pension Accumulation Fund of the Retirement System, as follows:

(a) Any person who was a teacher or employee, as defined in G.S. 135-1(10) and (25), for 20 or more years, whose separation from service was prior to April 1, 1956, was not due to any dishonorable cause, and who had attained age 65 prior to July 1, 1960, shall upon application be paid an allowance of one hundred seventy-three dollars and twenty-five cents ($173.25) per month.

(b) Any beneficiary who did not qualify for Social Security benefits and had 20 or more years of creditable service and qualified for a minimum eighty-five dollars ($85.00) per month under the provisions of Chapter 1140 of the 1965 Session Laws, shall be paid the allowance in effect on June 30, 1983.

(c) Any beneficiary who did not qualify for Social Security benefits and who had 15 years but less than 20 years of creditable service and qualified for a benefit of four dollars ($4.00) per month for each year of creditable service under the provisions of Chapter 1199 of the 1965 Session Laws shall be paid the allowance in effect on June 30, 1983.

(d) All the allowances in subsections (a) through (c) of this section may be adjusted by any cost-of-living increases in retirement allowances provided by the General Assembly or by the Board of Trustees."

——CONSIDER TENTH STEP/RETIREMENT FORMULA INCREASE

Sec. 224. It is the intent of the First Session of the 1983 General Assembly to give consideration during the 1984 Second Session for providing a tenth salary step for all State employees and educational personnel and for increasing the retirement formulas for educators, State employees and law enforcement officers to one and sixty hundredths percent (1.60%) of average final compensation per year of creditable service with comparable increases for retired personnel.

——DISCONTINUED SERVICE RETIREMENT ALLOWANCE AND SEVERANCE WAGES FOR MEMBERS/TEACHERS, STATE EMPLOYEES, LAW OFFICERS

Sec. 225. Effective July 1, 1983, G.S. 143-27.2 is rewritten to read as follows:

"§ 143-27.2. *Discontinued service retirement allowance and severance wages for certain State employees.*—The Director of the Budget, upon written request of a State department and with the recommendation of the State Personnel Officer, is authorized to pay either a discontinued service allowance or severance wages to a State employee when the Director determines that the closing of a State institution or a reduction in force will accomplish economies in the State Budget. Severance wages shall not be paid to an employee who chooses a discontinued service retirement. Severance wages shall not be subject to employer or employee retirement contributions.

Notwithstanding any other provisions of the State's retirement laws, any employee of the State who is a member of the Teachers' and State Employees' Retirement System or the Law Enforcement Officers' Retirement System and who has his job involuntarily terminated as a result of economies in the State Budget may be entitled to a discontinued service retirement allowance, subject to the approval of the employing agency and the availability of agency funds. An unreduced discontinued service retirement allowance, not otherwise allowed, may be approved for employees with 25 or more years of creditable retirement service who are at least 55 years of age; or a discontinued service retirement allowance, not otherwise allowed, may be approved for employees with 20 or more years of creditable retirement service who are at least 50 years of age, reduced by one-fourth of one percent (1/4 of 1%) for each month that retirement precedes his fifty-fifth birthday. In cases where a discontinued service retirement allowance is approved, the employing agency shall make a lump sum payment to the Administrator of the State Retirement Systems equal to the actuarial present value of the additional liabilities imposed upon the System, to be determined by the System's consulting actuary, as a result of the discontinued service retirement, plus an administrative fee to be determined by the Administrator."

——GRANDFATHER FIVE-YEAR SERVICE REQUIREMENT/ALL RETIREMENT SYSTEMS

Sec. 226. Effective July 1, 1983, G.S. 128-27(a) is amended by the addition of a new subdivision to the end to read:

"(4) Any member who was in service October 8, 1981, who had attained 60 years of age, may retire upon written application to the board of trustees setting forth at what time, as of the first day of a calendar month, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired."

Sec. 227. Effective July 1, 1983, G.S. 128-27(m)(1) is amended by deleting the phrase "had attained age 55 regardless of length of service" and substituting in lieu thereof the phrase "had attained the age of 60 years with at least five years of creditable service".

Sec. 228. Effective July 1, 1983, G.S. 135-5(a) is amended by the addition of a new subdivision (3) to read:

"(3) Any member who was in service October 8, 1981, who had attained 60 years of age, may retire upon written application to the board of trustees

setting forth at what time, as of the first day of a calendar month, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired."

Sec. 229. Effective July 1, 1983, G.S. 135-5(m)(1) is amended by deleting the phrase "had attained age 55 regardless of length of service" and substituting the phrase "had attained the age of 60 years with at least five years of creditable service".

Sec. 230. Effective July 1, 1983, G.S. 135-57 is amended by the addition of a new subsection (d) to read:

"(d) Any member who was in service October 8, 1981, who had attained 50 years of age, may retire upon written application to the board of trustees setting forth at what time, as of the first day of a calendar month, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired."

Sec. 231. Effective July 1, 1983, G.S. 135-63(a) is amended in the first sentence after the "(ii)" and after the words "his fiftieth birthday" and before the words "at his date of death" by inserting the words "with at least five years of membership service".

Sec. 232. Effective July 1, 1983, G.S. 143-166(y) is amended at the end of the first paragraph after the word "service" and before the period by adding the following phrase:

"; Provided however, any member who was in service October 8, 1981, who had attained 55 years of age, may retire".

Sec. 233. Sections 227, 229 and 231 shall not diminish any inchoate or accrued rights of any member in service on the date of ratification of this act.

——SURVIVORS' BENEFITS/JUDICIAL RETIREMENT SYSTEM

Sec. 234. Effective July 1, 1983, G.S. 135-63 is amended by adding a new subsection to the end to read:

"(d) Notwithstanding the provisions of G.S. 7A-376, there shall be paid to the surviving spouse of any former judge whose death occurred prior to July 1, 1983, who had not withdrawn his contributions pursuant to G.S. 135-62, an annual retirement allowance which shall commence on July 1, 1983, and shall be continued on the first day of each month thereafter until the death or remarriage of the spouse. If the spouse dies or remarries before the total of the retirement allowance paid equals the amount of the former judge's accumulated contributions, the excess of the accumulated contributions over the total of the retirement allowance paid to the spouse shall be paid in a lump sum to the person the spouse has nominated by written designation duly acknowledged and filed with the Board of Trustees, if the person is living at the time the payment falls due, otherwise to the spouse's legal representative. The amount of any such retirement allowance shall be computed in accordance with the provisions of subsection (a) above. This subsection does not authorize allowances to surviving spouses of former judges convicted of crimes related to the performance of their judicial duties."

Sec. 235. The Board of Trustees of the Teachers' and State Employees' Retirement System, with the advice of the Administrative Office of the Courts, shall perform an analysis of the effects of Chapter 7A of the North Carolina General Statutes upon the Uniform Judicial Retirement System, particularly as the Chapter relates to survivor benefits, and report any recommended changes to the Second Session of the 1983 General Assembly.

——DEATH BENEFITS FOR LAW OFFICERS, FIREMEN, ETC.

Sec. 236. Effective July 1, 1983, G.S. 143-166.1 is amended by repealing the second sentence.

Sec. 237. Effective July 1, 1983, G.S. 143-166.2 is amended by adding a new subsection to the end to read:

"(f) The term 'official duties' means those duties performed while en route to, engaged in, or returning from training, or in the course of responding to, engaged in or returning from a call by the department of which he is a member, or from a call for assistance from any department or such organization within the State of North Carolina or within a service area contiguous to the borders of the State of North Carolina, when served or aided by a department from within the State of North Carolina. While within the State of North Carolina, any eligible person, as defined in this section or in G.S. 118-38, who renders service or assistance, of his own volition, at the scene of an emergency, is performing his official duties when:

(1) reasonably apparent circumstances require prompt decisions and actions to protect persons and property; and

(2) the necessity of immediate action is so reasonably apparent that any delay in acting would seriously worsen the property damage or endanger any person's life."

——LEGISLATIVE RETIREMENT SYSTEM

Sec. 238. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 1A.

"Legislative Retirement System.

"§ 120-4.3. *Definitions.*—The following words and phrases as used in this Article, unless the context clearly requires otherwise, have the following meanings:

(1) 'Accumulated contributions' means the sum of all the amounts deducted from the compensation of a member and credited to his individual account in the annuity savings fund, together with regular interest as provided in G.S. 135-7(b).

(2) 'Actuarial equivalent' means a benefit of equal value when computed upon the basis of the mortality tables as adopted by the Board of Trustees, and regular interest.

(3) 'Annuity' means payment for life derived from the 'Accumulated contribution' of a member. All 'annuities' are payable in equal monthly installments.

(4) 'Annuity reserve' means the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity, computed upon the basis of the mortality tables as adopted by the Board of Trustees, and regular interest.

(5) 'Compensation' means salary paid as a legislator for service in the North Carolina General Assembly, exclusive of travel, per diem and expense allowances.

(6) 'Filing', when used in reference to an application for retirement, means the receipt of an acceptable application on a form provided by the Retirement System.

(7) 'Highest annual salary' means the twelve consecutive months of compensation paid to a legislator which yields the highest total amount.

(8) 'Medical Board' means the board of physicians provided for in G.S. 135-6, which shall determine disability as provided in this Article.

(9) 'Member in service' means a member in service on or after the effective date of this section.

(10) 'Pension reserve' means the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of the mortality tables adopted by the Board of Trustees, and regular interest.

(11) 'Pensions' means payments for life derived from money provided by the State of North Carolina. All pensions are payable in equal monthly installments.

(12) 'Present member of the General Assembly' means a person who is a member of the General Assembly on or after the effective date of this section.

(13) 'Regular interest' means interest compounded annually at the rate determined by the Board of Trustees in accordance with G.S. 135-7(b) and G.S. 120-4.5.

(14) 'Retirement' means the withdrawal from active service with a retirement allowance granted under the provisions of this Article. In order for a member's retirement to become effective in any month, the member must render no service at any time during that month.

(15) 'Year' as used in this Article shall mean the regular fiscal year beginning July 1, and ending June 30 in the following calendar year unless otherwise defined by rule of the Board of Trustees.

"§ 120-4.4. *Name and date of establishment.*—A Retirement System is established and placed under the Board of Trustees of the Teachers' and State Employees' Retirement System for administrative purposes.

The Retirement System shall have all the power and privileges of a corporation and shall be known as the 'Legislative Retirement System of North Carolina'. By this name all of its business shall be transacted, all of its funds invested and all of its cash and securities and other property held. All direction and policies concerning the Legislative Retirement System shall be vested in the Legislative Services Commission.

"§ 120-4.5. *Administration of retirement system.*—The Board of Trustees of the Teachers' and State Employees' Retirement System shall be the trustee of the Retirement System, under the direction of the Legislative Services Commission. The provisions of this Article shall be administered by the Board of Trustees, under the direction of the Legislative Services Commission.

"§ 120-4.6. *Membership.*—The membership of this Retirement System is as follows:

(1) All present members of the General Assembly who are not active members of any of the following retirement systems: The Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Retirement Fund, the Uniform Judicial Retirement System of North Carolina, the Uniform Solicitorial Retirement System of North Carolina or the Uniform Clerks of Superior Court Retirement System of North Carolina. Membership shall also include members vested in or maintaining member contributions in the Legislative Retirement Fund established by Chapter 1269, 1969 Session Laws, who elect to transfer to the Retirement System.

(2) All former members of the General Assembly who are retirees of the Legislative Retirement Fund established by Chapter 1269, 1969 Session Laws,

who are not active members of any of the following retirement systems: The Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Retirement Fund, the Uniform Judicial Retirement System of North Carolina, the Uniform Solicitorial Retirement System of North Carolina of the Uniform Clerks of Court Retirement System of North Carolina and who elect to transfer to the Retirement System.

"§ 120-4.7. *Creditable service.*—(a) Creditable service at retirement consists of the membership service rendered by the member of the Retirement System and any prior service purchased or granted by this Article.

(b) Membership Service means the number of years served as a member of the General Assembly as of the establishment of the Retirement System and thereafter. One year of membership service is equal to 12 months for which a legislator received compensation.

(c) Prior service means:

(1) the number of years a present member of the General Assembly served in the General Assembly prior to the establishment of the Retirement System;

(2) the number of years served by former members of the General Assembly who were vested in the Legislative Retirement Fund. One year of prior service is equal to 12 months for which a legislator received compensation.

"§ 120-4.8. *Transfer of membership and benefits.*—The Board of Trustees shall set up procedures to transfer membership from the Legislative Retirement Fund to the Retirement System and to recompute benefits paid to retirees of the Legislative Retirement Fund who elect to transfer to the Retirement System.

"§ 120-4.9. *Purchase of prior service.*—Purchase of prior service rendered by a member of the General Assembly before the convening of the 1985 regular session of the General Assembly that is not service that may be transferred pursuant to G.S. 120-4.7 shall be at the rate of one month of service for each month for which a legislator received compensation, computed as follows:

(1) For terms beginning with the 1975 General Assembly, seven percent (7%) of the highest legislative compensation, plus regular interest and an administrative fee, to be paid in lump sum.

(2) For terms beginning prior to the 1975 General Assembly, five percent (5%) of the highest legislative compensation, plus regular interest and an administrative fee, to be paid in lump sum.

"§ 120-4.10. *Repayment of contributions.*—Repayment of contributions withdrawn from the Legislative Retirement Fund shall be at the rate of seven percent (7%) of the highest monthly compensation received as a legislator, plus regular interest and an administrative fee, to be paid in lump sum.

"§ 120-4.10A. *Repayments and purchases.*—All repayments and purchases of service credit, allowed under this Article, shall be made within two years after the member first becomes eligible for membership in the System. All such repayments and purchases not made within two years after the member becomes eligible for membership in the System shall equal the full actuarial cost of the additional service credit as defined in G.S. 135-4(m).

"§ 120-4.11. *Assets of retirement system.*—(a) All of the assets of the Retirement System shall be credited according to the purpose for which they

are held to one of two funds, either the annuity savings fund or the pension accumulation fund.

(b) The annuity savings fund is the fund to which all members' contributions, and regular interest allowances provided for as in G.S. 135-7(b), shall be credited. From this fund shall be paid the accumulated contributions of a member.

(c) Upon the retirement of a member, his accumulated contributions shall be transferred from the annuity savings fund to the pension accumulation fund. In the event that a retired former member should subsequently again become a member of the Retirement System as provided for in G.S. 120-4.6, any excess of his accumulated contributions at his date of retirement over the sum of the retirement allowance payments received by him since his date of retirement shall be transferred from the pension accumulation fund to the annuity savings fund and shall be credited to his individual account in the annuity savings fund.

(d) The pension accumulation fund is the fund in which accumulated contributions by the State and amounts transferred from the annuity savings fund in accordance with subsection (c) of this section and to which all income from the invested assets of the Retirement System are credited. From this fund is paid retirement allowances and any other benefits provided for under this Article except payments of accumulated contributions as provided in G.S. 120-4.9.

(e) The regular interest allowance on the members' accumulated contributions provided for as in G.S. 135-7(b) shall be transferred each year from the pension accumulation fund to the annuity savings fund.

"§ 120-4.12. *Management of funds.*—The Board of Trustees shall manage the fund established by G.S. 120-4.11 pursuant to G.S. 135-7.

"§ 120-4.13. *Contributions by the members.*—Effective upon convening of the 1985 regular session of the General Assembly, each member shall contribute by payroll deduction for each pay period for which he receives compensation seven percent (7%) of his compensation for the period.

"§ 120-4.14. *Contributions by the State.*—(a) Effective upon convening of the 1985 regular session of the General Assembly, the State shall contribute annually an amount equal to the sum of the 'normal contribution' and the 'accrued liability contribution'.

(b) The normal contribution for any period shall be determined as a percentage, equal to the normal contribution rate, of the total compensation of the members for the period. The normal contribution rate shall be determined as the percentage represented by the ratio of (i) the annual normal cost to provide the benefits of the Retirement System, computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, in excess of the part thereof provided by the members' contributions, to (ii) the total annual compensation of the members of the Retirement System.

(c) The accrued liability contribution for any period shall be determined as a percentage, equal to the accrued liability contribution rate, of the total compensation of the members for the period. The accrued liability contribution rate shall be determined as the percentage represented by the ratio of (i) the level annual contribution necessary to amortize the unfunded accrued liability over a period of 15 years, computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of

Trustees, to (ii) the total annual compensation of the members of the Retirement System.

(d) The unfunded accrued liability as of any date shall be determined, in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, as the excess of (i) the then present value of the benefits to be provided under the Retirement System in the future over (ii) the sum of the assets of the Retirement System then currently on hand in the annuity savings fund and the pension accumulation fund, plus the then present value of the stipulated contributions to be made in the future by the members, plus the then present value of the normal contributions expected to be made in the future by the State.

(e) The normal contribution rate and the accrued liability contribution rate shall be determined after each annual valuation of the Retirement System and shall remain in effect until a new valuation is made.

(f) The annual contributions by the State for any year shall be at least sufficient, when combined with the amount held in the pension accumulation fund at the start of the year, to provide the retirement allowances and other benefits payable out of the fund during the current year.

"§ 120-4.15. *Service retirement benefits.*—(a) Eligibility; application. Any member in service may retire with full benefits who has reached 65 years of age with eight years of creditable service or who has completed 25 years of creditable service regardless of age. Any member in service may retire with reduced benefits who has reached the age of 60 years with 8 years of creditable service. The member shall make written application to the Board of Trustees to retire on a service retirement allowance on the first day of the particular calendar month he designates. The designated date shall be no less than 30 nor more than 90 days from the filing of the application. During this period of notification, a member may separate from service without forfeiting his retirement benefits.

(b) Computation. Upon retirement from service in accordance with subsection (a) of this section, a member shall receive a service retirement allowance computed as follows:

(1) For a member whose retirement date occurs on or after his 65th birthday and upon completion of eight years of creditable service or upon 25 years of creditable service regardless of age, four percent (4%) of his 'highest annual salary', multiplied by the number of years of creditable service.

(2) For a member whose retirement date occurs on or after his 60th and before his 65th birthday and upon completion of eight years of creditable service, computation as in subdivision (1) of this subsection, reduced by one-fourth of one percent (1/4 of 1%) for each month his retirement date precedes his 65th birthday.

(c) Limitations. In no event shall any member receive a service retirement allowance greater than seventy-five percent (75%) of his 'highest annual salary' nor shall he receive any service retirement allowance whatever while employed in a position that makes him a member of any of the following retirement systems: The Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Retirement Fund, the Uniform Judicial Retirement System of North Carolina, the Uniform Solicitorial Retirement

System of North Carolina or the Uniform Clerks of Court Retirement System of North Carolina. If he should become a member of any of these systems, payment of his service retirement allowance shall be suspended until he withdraws from membership in that system.

"§ 120-4.16. *Disability retirement benefits.*—(a) Eligibility; application. Upon application by or on behalf of the member, any member in service who has completed at least eight years of creditable service but less than 25 years and who has not reached his 60th birthday may, after medical certification, be retired on a disability retirement allowance by the Board of Trustees on the first day of the particular calendar month designated by the applicant. The designated date shall be no less than 30 nor more than 90 days from the filing of the application.

(b) Medical certification. After a medical examination of the member, the medical board shall certify to the Board of Trustees that the member is mentally or physically incapacitated for further performance of duty as a member of the General Assembly, that the incapacity was incurred at the time of active employment and has been continuous thereafter, that the incapacity is likely to be permanent and whether the member should be retired.

(c) Computation. Upon retirement for disability pursuant to subsection (a) of this section, a member shall receive a disability retirement allowance equal to a service retirement allowance calculated on the basis of the member's 'highest annual salary' and the creditable service he would have had by the age of 60 had he continued in service.

(d) Limitations. In no event shall any member receive a disability retirement allowance greater than seventy-five percent (75%) of his 'highest annual salary' nor shall he receive any disability retirement allowance whatever while employed in a position that makes him a member of any of the following retirement systems: The Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Retirement Fund, the Uniform Judicial Retirement System of North Carolina, the Uniform Solicitorial Retirement System of North Carolina or the Uniform Clerks of Court Retirement System of North Carolina. If he should become a member of any of these systems payment of his disability retirement allowance shall be suspended until he withdraws from membership in that system.

"§ 120-4.17. *Reexamination for disability retirement allowance.*—Any disability retiree who has not reached age 65 shall be reexamined pursuant to G.S. 135-5(e). After he reaches age 65, no further examinations are required.

"§ 120-4.18. *Return to membership of former member.*—If a retired former member of the Retirement System or of the Legislative Retirement Fund returns to service as a member of the General Assembly, his retirement allowance shall cease and he shall be restored as a member of the Retirement System. The computation of the amount of benefits to which he may subsequently become entitled under this Article shall be computed as follows:

The allowance to which he would have been entitled if he were retiring for the first time, calculated on the basis of his total creditable service, reduced by the actuarial equivalent of the retirement benefits he previously received.

"§ 120-4.19. *Return of accumulated contributions.*—If a member ceases to be a member of the General Assembly except by death or retirement he shall, upon submission of an application, be paid, not earlier than 60 days from receipt in

the Raleigh offices of the Board of Trustees of an acceptable application on a form provided by the Retirement System, the sum of his contributions, if he has not in the meantime returned to service. Upon payment of this sum his membership in the System ceases. If he becomes a member afterwards, no credit shall be allowed for any service previously rendered except as provided in G.S. 120-4.9 and the payment shall be in full and complete discharge of any rights in or to any benefits otherwise payable under this Article. Upon receipt of proof satisfactory to the Board of Trustees of the death, prior to retirement, of a member or former member, there shall be paid to the person or persons he nominated by written designation duly acknowledged and filed with the Board of Trustees, if the person or persons are living at the time of the member's death, otherwise to the member's legal representatives, the amount of his accumulated contributions at the time of his death, unless the beneficiary elects to receive the alternate benefit under the provisions of G.S. 120-4.22. There shall be deducted from any amount otherwise payable any amount due any agency or subdivision of the State by the member by reason of any outstanding overpayment of salary or by any other reason. Even if the member fails to demand the return of his accumulated contributions within 90 days from the day he ceases to be a member of the General Assembly, any amount due the agency or subdivision by reason of any outstanding overpayment of salary or any other reason shall be paid to the agency or subdivision by the Retirement System upon demand. After the agency or subdivision has notified the executive director of any amount due. The Retirement System has no liability for amounts deducted and transmitted to the agency or subdivision nor for any failure by the Retirement System for any reason to make the deductions.

"§ 120-4.20. *Benefit payment options.*—Any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of the retirement allowance in a reduced allowance payable throughout life under the provisions of one of the options set forth below. No election may be made after the first payment becomes due, or the first retirement check cashed, nor may an election be revoked or a nomination changed. The election of option 2 or option 3 or the nomination of the person thereunder shall be revoked if the person nominated dies prior to the date the first payment becomes normally due or until the first retirement check has been cashed. The election may be revoked by the member prior to the date the first payment becomes normally due or until his first retirement check has been cashed.

Option 1. If a member dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120th for each month for which he has received a retirement allowance payment, shall be paid to his legal representative or to the person he nominates by written designation acknowledged and filed with the Board of Trustees;

Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to the person he nominates by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement. If the person selected is other than his spouse, the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option 3. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of and paid to the person he nominates by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement.

"§ 120-4.21. *Death benefit.*—The designated beneficiary of a member who dies while in service after completing one year of creditable service shall receive a lump-sum payment of an amount equal to the deceased member's highest annual salary, to a maximum of fifteen thousand dollars ($15,000). For purposes of this death benefit 'in service' means currently serving as a member of the North Carolina General Assembly.

"§ 120-4.22. *Survivor's alternate benefit.*—The designated beneficiary of a member who dies before retirement but after age 60 and after completing eight years of creditable service is entitled to option 2 prescribed by G.S. 120-4.19.

"§ 120-4.23. *Exemption from taxes, garnishment, attachment.*—The right of a person to a pension, annuity, or retirement allowance, to the return of contributions, or to the receipt of the pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Article, and the moneys in the various funds created by this Article, are exempt from any State or municipal tax, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, shall be unassignable except as this Article specifically provides."

Sec. 239. Notwithstanding the provisions of Section 238 of this act, to the effect that all members of the 1983 General Assembly shall be members of the Legislative Retirement System, members of the 1983 General Assembly must make an affirmative election in writing, within 60 days after the ratification date of this act to become a member of the system.

Sec. 240. Section 238 of this act shall become effective upon convening of the 1985 Regular Session of the General Assembly, except that G.S. 120-4.3 through G.S. 120-4.12 are effective upon ratification.

——LOCAL LAW OFFICERS RETIREMENT FUNDING

Sec. 241. Effective July 1, 1983, G.S. 143-166 is amended by adding a new subsection after subsection "(a)" designated as "(a1)" to read:

"(a1) The board of trustees shall set a uniform annual percentage rate of contribution payable by the State and each county, city, town or political subdivision thereof (hereinafter referred to as an employer) necessary to fund the benefits and allowances provided under this section for law enforcement officers employed by each employer who are members of this Retirement System. The employer shall pay monthly into the Retirement System an amount equal to the annual percentage rate of contribution multiplied by the total monthly compensation of members employed by the employer; provided, the employer rate of contribution required of an employer other than the State shall be reduced in an amount equivalent to any appropriations for such purpose as are made from time to time by the North Carolina General Assembly. The Board of Trustees shall adopt such rules and regulations as are necessary and reasonable for the collection of employer contributions."

——JUDICIAL PERSONNEL/LONGEVITY PAY

Sec. 242. Effective July 1, 1983, G.S. 7A-10 is amended by adding a new subsection to read:

"(c) In lieu of merit and other increment raises paid to regular State employees, the Chief Justice and each of the Associate Justices shall receive as

longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. Service shall mean service as justice or judge of the General Court of Justice."

Sec. 243. Effective July 1, 1983, G.S. 7A-18 is amended by designating the existing paragraph as subsection (a) and by adding a new subsection to read:

"(b) In lieu of merit and other increment raises paid to regular State employees, a judge of the Court of Appeals shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. Service shall mean service as a justice or judge of the General Court of Justice."

Sec. 244. Effective July 1, 1983, G.S. 7A-44 is amended by designating the existing paragraph as subsection (a) and by adding a new subsection to read:

"(b) In lieu of merit and other increment raises paid to regular State employees, a judge of the superior court, regular or special, shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. Service shall mean service as a justice or judge of the General Court of Justice."

Sec. 245. Effective July 1, 1983, G.S. 7A-144 is amended by designating the existing paragraph as subsection (a) and by adding a new subsection to read:

"(b) Notwithstanding merit, longevity and other increment raises paid to regular State employees, a judge of the district court shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. Service shall mean service as a justice or judge of the General Court of Justice."

Sec. 246. Effective July 1, 1983, G.S. 7A-65 is amended by designating the existing paragraph as subsection (a) and by adding a new subsection to read:

"(b) In lieu of merit and other increment raises paid to regular State employees, a district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service. Service shall mean service in the elective position of a district attorney and shall not include service as an assistant deputy or acting district attorney."

Sec. 247. Effective July 1, 1983, G.S. 7A-101 is amended by adding a new paragraph to read:

"In lieu of merit and other increment raises paid to regular State employees, a clerk of superior court shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service. Service shall mean service in the elective position of clerk of superior court and shall not include service as an assistant, deputy, or acting clerk."

Sec. 248. Effective July 1, 1984, G.S. 7A-65 is amended by adding a new subsection to read:

"(c) In lieu of merit and other increment raises paid to regular State employees, a district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. Service shall mean service in the elective position of a district attorney and shall not include service as an assistant, deputy, or acting district attorney.

Sec. 249. Effective July 1, 1984, G.S. 7A-101 is amended by adding a new paragraph to read:

"In lieu of merit and other increment raises paid to regular State employees, a clerk of superior court shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. Service shall mean service in the elective position of clerk of superior court and shall not include service as an assistant, deputy, or acting clerk.

——NATIONAL GUARD PENSIONS

Sec. 250. G.S. 127A-40(f) is amended by rewriting the section to read:

"(f) The Secretary of Crime Control and Public Safety shall determine the eligibility of guard members for the benefits herein provided and shall certify those eligible to the State Treasurer. In addition, the Department of Crime Control and Public Safety shall, on and after July 1, 1983, provide the Department of State Treasurer with an annual census population, by age and the number of years of creditable service, for all former members of the National Guard in receipt of a pension as well as for all active members of the National Guard who are not in receipt of a pension and who have seven and more years of creditable service. The Department of Crime Control and Public Safety shall also provide the State Treasurer a census population of all former members of the National Guard who are not in receipt of a pension and who have 15 and more years of creditable service. The Department of State Treasurer shall make pension payments to those persons certified from the North Carolina National Guard Pension Fund, which shall include General Fund appropriations made to and transferred from the Department of Crime Control and Public Safety. The Department of State Treasurer shall have performed an annual actuarial valuation of the Fund and shall have the financial responsibility for maintaining the Fund on a generally accepted actuarial basis. The Department of Crime Control and Public Safety shall provide the Department of State Treasurer with whatever assistance is required by the State Treasurer in carrying out his financial responsibilities."

Sec. 251. G.S. 127A-40 is amended by adding the following subsections:

"(h) If, for any reason, the North Carolina National Guard Pension Fund shall be insufficient to pay in full any pension benefits, or other charges, then all benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a pension or benefit payment shall have been reduced.

(i) Pensions for members of the North Carolina National Guard shall be subject to future legislative change or revision."

——NONCONTRIBUTORY HEALTH BENEFIT PREMIUMS/LEGISLATORS

Sec. 252. Upon convening of the 1985 Regular Session of the General Assembly G.S. 135-40.2(a)(2) is amended to read:

"(2) Retired teachers, State employees, and members of the General Assembly."

Sec. 253. Upon convening of the 1985 Regular Session of the General Assembly G.S. 135-40.2(a)(3) is amended to read:

"(3) Surviving spouses of deceased retirees and surviving spouses of deceased teachers, State employees, and members of the General Assembly who are receiving a survivor's alternate benefit under any of the State-supported retirement programs."

Sec. 254. Upon convening of the 1985 Regular Session of the General Assembly G.S. 135-40.2(a) is amended by adding subsection "(4)" to read:

"(4) Members of the General Assembly."

Sec. 255. Upon convening of the 1985 Regular Session of the General Assembly G.S. 135-40.2(b) is amended by deleting subsection "(1)".

Sec. 256. G.S. 135-40.3(a) is amended by adding subsection "(4)" to read:

"(4) Members of the General Assembly, beginning with the 1985 Session, shall become first eligible with the convening of each Session of the General Assembly, regardless of a Member's service during previous Sessions. Members and their dependents enrolled when first eligible after the convening of each Session of the General Assembly will not be subject to any waiting periods for preexisting health conditions. Members of the 1983 Session of the General Assembly, not already enrolled, shall be eligible to enroll themselves and their dependents on or before October 1, 1983, without being subject to any waiting periods for preexisting health conditions."

PART XXIII.——SPECIAL PROVISIONS/APPROPRIATIONS ACT

——EXECUTIVE BUDGET ACT REFERENCE

Sec. 257. The provisions of the Executive Budget Act, Chapter 143, Article 1, of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

——EFFECT OF MOST LIMITATIONS AND DIRECTIONS IN TEXT/ONLY - 1983-85

Sec. 258. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1983-85 biennium, the textual provisions of this act shall apply only to funds appropriated for, and activities occurring during, the 1983-85 biennium.

——SEVERABILITY CLAUSE

Sec. 259. If any section or provision of this act is declared unconstitutional or invalid by the courts, it shall not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

——EFFECTIVE DATE

Sec. 260. Except as otherwise provided herein, all sections of this act are effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 21 CHAPTER 762

AN ACT TO REMOVE THE DEFENSES OF UNLAWFUL ARREST IN CASES OF RESISTING ARREST BY USE OF A DEADLY WEAPON OR DEADLY FORCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-401 is amended by adding a new subsection (f) to read:

"(f) Use of Deadly Weapon or Deadly Force to Resist Arrest.

(1) A person is not justified in using a deadly weapon or deadly force to resist an arrest by a law enforcement officer using reasonable force, when the person knows or has reason to know that the officer is a law enforcement officer and that the officer is effecting or attempting to effect an arrest.

(2) The fact that the arrest was not authorized under this section is no defense to an otherwise valid criminal charge arising out of the use of such deadly weapon or deadly force.

(3) Nothing contained in this subsection (f) shall be construed to excuse or justify the unreasonable or excessive force by an officer in effecting an arrest. Nothing contained in this subsection (f) shall be construed to bar or limit any civil action arising out of an arrest not authorized by this Article."

Sec. 2. This act shall become effective October 1, 1983, and applies only to offenses committed on or after that date.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 56 CHAPTER 763

AN ACT TO AMEND THE SAFE DRIVER INSURANCE PLAN PROVISIONS BY INCREASING THE PROPERTY DAMAGE THRESHOLD FOR CHARGEABLE ACCIDENTS AND ELIMINATING SURCHARGES FOR CERTAIN SPEEDING TRAFFIC VIOLATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-30.5. *Major and minor chargeable accidents and certain speeding traffic violations under the Safe Driver Insurance Plan.*—(a) The subclassification plan promulgated pursuant to G.S. 58-30.4 shall provide for separate surcharges for major chargeable accidents and minor chargeable accidents. 'Major chargeable accident' means a chargeable accident that results in (a) bodily injury or death or (b) damage in excess of five hundred dollars ($500.00) to any combination of (i) property not owned by the applicant nor by any current resident operator and (ii) his motor vehicle. 'Minor chargeable accident' means a chargeable accident that results in damage of five hundred dollars ($500.00) or less to any combination of (i) property not owned by the applicant nor by any current resident operator and (ii) his motor vehicle.

(b) The subclassification plan shall provide that with respect to a conviction for a 'violation of speeding 10 miles per hour or less over the speed limit' there shall be no premium surcharge nor any assessment of points unless there is a

driving record consisting of a conviction or convictions for a moving traffic violation or violations during the three years immediately preceding the date of application or the preparation of the renewal.

(c) The North Carolina Rate Bureau shall promulgate a revised subclassification plan to reflect the provisions of this section. Such plan shall be subject to the filing, hearing, disapproval, review, and appeal procedures before the Commissioner and the courts as provided for rates and classification plans in G.S. 58-124.20, 58-124.21, and 58-124.22. The Bureau shall make a filing no later than September 1, 1983, and such plan so promulgated shall become effective January 1, 1984. Such plan shall apply only to chargeable accidents and violations of speeding 10 miles per hour or less over the speed limit that occur on or after January 1, 1984. With respect to any chargeable accidents or violations of speeding 10 miles per hour or less over the speed limit occurring prior to January 1, 1984, the surcharge and period for which such surcharge is applied and collected shall be determined by the subclassification plan in effect at the time such chargeable accident or violation of speeding 10 miles per hour or less over the speed limit occurs.

(d) For the purposes of subsections (b) and (c) of this section, a 'violation of speeding 10 miles per hour or less over the speed limit' does not include the offense of speeding in a school zone in excess of the posted school zone speed limit.

(e) Any adjustments in rates for nonfleet passenger motor vehicle insurance to offset any reduction in premium level due to the implementation of the provisions of this section shall be made through adjustments to the base rates for the affected coverages. Such adjustments shall be filed by the Bureau with the Commissioner in accordance with the standards and procedures of Articles 12B and 25A of this Chapter. In no event shall such adjustments be deemed to be changes in the total combined general rate level within the meaning of G.S. 58-124.26."

Sec. 2. The catch line of G.S. 58-30.4 is amended by changing the period to a semicolon and by adding the following: "*Safe Driver Insurance Plan.*"

Sec. 3. G.S. 58-30.4 is amended by rewriting the sentence that begins on line 17 with the word "The" to read: "The subclassification plan to be effective January 1, 1984, shall provide that in a policy insuring more than one motor vehicle, driving record premium surcharges for chargeable accidents and moving traffic violations shall be distributed equally among the motor vehicles so insured."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 612 **CHAPTER 764**

AN ACT TO REVISE THE STATUTES RELATING TO THE GAME COMMISSION OF CURRITUCK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. This act amends the legislation relating to the Game Commission of Currituck County contained in Session Laws 1957, Chapter 1436, as amended by Session Laws 1971, Chapter 1178, Session Laws 1973, Chapter 747, Session Laws 1975, Chapter 398, Session Laws 1977, Chapter 190, and Session Laws 1981, Chapter 622.

Sec. 2. The fourth sentence of Section 4 of Session Laws 1957, Chapter 1436, as amended, is rewritten to read as follows: "The clerk shall be required to keep a complete and permanent record of all licenses issued by the Game Commission in the office of the Game Commission, and this record shall be open to inspection upon reasonable notice."

Sec. 3. The proviso in the introductory sentence of Section 10 of Session Laws 1957, Chapter 1436, as amended, is rewritten to read as follows: "provided further that applications filed later than August 1 shall be given consideration at subsequent meetings of the Game Commission."

Sec. 4. The first sentence of subsection (b) of Section 10 of Session Laws 1957, Chapter 1436, as amended, is rewritten to read as follows: "Application must be filed on or before August 1 of each year to insure timely consideration."

Sec. 5. The first sentence of subsection (a) of Section 29 of Session Laws 1957, Chapter 1436, as amended, is rewritten to read as follows: "All applications for blind licenses shall be made in writing and filed with the clerk to the Game Commission between July 15 and August 1 of each year."

Sec. 6. Subsection (d) of Section 29 of Session Laws 1957, Chapter 1436, as amended, is amended to add the following sentences at the end of the subsection: "In addition, within one week following the hearing, the clerk to the Game Commission shall mail a notice of the decision of the Game Commission to:

(1) Each party who appeared at the hearing on the issue in question; and

(2) Each person who, according to the records of the Game Commission, will be directly affected by the decision of the Game Commission at the hearing.

Whether this notice is mailed or received, however, it is the responsibility of each party to the hearing to determine the decision of the Game Commission affecting him."

Sec. 7. Section 29 of Session Laws 1957, Chapter 1436, as amended, is amended by deleting subsection (e) and substituting the following new subsections:

"(e) Any party to the hearing provided by subsection (c) who is aggrieved by the decision of the Game Commission may appeal the decision to the District Court Division of the General Court of Justice sitting in Currituck County, where the matter shall be heard *de novo* by a district court judge sitting without a jury. The aggrieved party shall file written notice of his appeal with the office of the Clerk of Superior Court of Currituck County explicitly stating the grounds for his objection to the decision of the Game Commission and the relief sought. The aggrieved party shall style his notice of appeal in a manner to identify the issue to be litigated, such as 'In the Matter of a License for a

Stationary Bush Blind Located at (give location).' Filing notice of appeal shall suspend the decision taken by the Game Commission pending resolution of the question by the district court, except that right to appeal is barred by a failure:

(1) To file the notice of appeal with the clerk of superior court by the third Wednesday in September; or

(2) To perfect the appeal in accordance with subdivision (e1) within 10 days after filing the notice of appeal.

(e1) After filing notice of appeal, the aggrieved party shall perfect the appeal by paying the costs of the appeal to the Clerk of Superior Court of Currituck County and by serving a copy of the notice of appeal upon the clerk to the Game Commission and upon each person who is shown by the records of the Game Commission to have been entitled to be mailed a notice of the decision of the Game Commission with respect to the issue in question under the terms of subsection (d). The clerk to the Game Commission shall upon request furnish the appealing party the names and addresses of the persons entitled to the notice. Service shall be in accordance with G.S. 1A-1, Rule 4.

(e2) Any person served with the notice of appeal under subsection (e1) may become a party in the appeal proceeding before the district court judge by notifying the Clerk of Superior Court of Currituck County within seven days after service of the notice of appeal upon him. Any other person aggrieved by the decision of the Game Commission may petition to become a party by filing a motion to intervene as provided in G.S. 1A-1, Rule 24.

(e3) The responsible judicial official in the First Judicial District shall schedule the hearing upon an appeal as expeditiously as possible after the appeal is perfected, but it may not be scheduled until the fourth Wednesday in September or, if later, seven days after service of the notice of appeal upon the clerk to the Game Commission and all other persons required to be served with notice of appeal under subsection (e1). If any aggrieved party fails to appear at any scheduled appeal proceeding, the party's appeal shall be dismissed.

(e4) Upon the appeal, the Game Commission shall be a party and shall be represented by one or more of the members of the Game Commission. In addition, the clerk to the Game Commission and its attorney, surveyor, and others who have acted for or on behalf of the Game Commission may testify to facts in issue upon the appeal of which they have knowledge and to the Game Commission's findings and criteria that apply to the matter in issue. The Game Commission shall furnish the court with relevant records and exhibits bearing upon the matter in issue and the decision it made.

(e5) In determining whether to grant or deny a blind license to any applicant, to modify the terms of a license, or otherwise to decide any matter in issue upon appeal, the district court judge shall follow the criteria:

(1) In this act; and

(2) Established by regulations and guidelines of the Game Commission, to the extent that they are reasonable and in conformity with the policies of this act.

After the district court judge's decision, he may implement his ruling with appropriate orders to the Game Commission concerning issuance of the blind license, rejection or modification of the application, and any other matters in issue upon the appeal."

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 909 CHAPTER 765

AN ACT TO AMEND ARTICLE V OF THE CONSTITUTION OF NORTH CAROLINA TO AUTHORIZE THE GENERAL ASSEMBLY TO CREATE AN AGENCY TO ISSUE REVENUE BONDS TO FINANCE AGRICULTURAL FACILITIES PROJECTS, SUBJECT TO THE APPROVAL OF THE ELECTORATE.

The General Assembly of North Carolina enacts:

Section 1. Article V of the Constitution of North Carolina is hereby amended by adding a new section to be designated Section 11, immediately following Section 10, and to read as follows:

"Sec. 11. *Capital projects for agriculture.* Notwithstanding any other provision of the Constitution the General Assembly may enact general laws to authorize the creation of an agency to issue revenue bonds to finance the cost of capital projects consisting of agricultural facilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by and payable only from revenues or property derived from private parties. All such capital projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project."

Sec. 2. The Constitutional amendment set forth in Section 1 shall be submitted to the qualified voters of the State at the next State primary, general, or other statewide election for their ratification or rejection. At such election the State Board of Elections shall cause to be printed the following:

"☐ FOR Constitutional amendment to permit the General Assembly to enact general laws to authorize the creation of an agency to issue revenue bonds to finance the cost of capital projects consisting of agricultural facilities, and to refund such bonds, such bonds to be secured by and payable only from revenues or property derived from private parties and in no event to be secured by or payable from any public moneys whatsoever.

☐ AGAINST Constitutional amendment to permit the General Assembly to enact general laws to authorize the creation of an agency to issue revenue bonds to finance the cost of capital projects consisting of agricultural facilities, and to refund such bonds, such bonds to be secured by and payable only from revenues or property derived from private parties and in no event to be secured by or payable from any public moneys whatsoever."

Those qualified voters favoring the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 3. If a majority of votes cast thereon are in favor of the amendment, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment shall become effective upon such certification.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 954 CHAPTER 766

AN ACT TO REGULATE THE PURCHASE OF MUTUAL BURIAL ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-241.34 is rewritten to read:

"§ 58-241.34. *Authority of foreign or domestic mutual burial association* or *domestic or foreign insurance company to purchase, merge or consolidate with North Carolina mutual burial associations.*—(a) Any mutual burial association or insurance company operating pursuant to the laws of this State or any other state may purchase the assets of, merge, or consolidate with a North Carolina chartered mutual burial association in accordance with the laws of this State and any rules promulgated by the North Carolina Mutual Burial Association Commission to protect the interest of members of mutual burial associations prior to the purchase, merger, or consolidation of the association.

(b) Notwithstanding any provision of Chapter 55 or Chapter 55A, any domestic or foreign insurance company which if organized in North Carolina would have to be organized under Chapter 55 may merge or consolidate with any domestic mutual burial association. When a domestic or foreign insurance company consolidates or merges with a domestic mutual burial association and sells insurance or burial benefits in excess of two hundred dollars ($200.00), it shall be subject to all of the provisions of the insurance laws of North Carolina.

(c) If the assets and liabilities of a North Carolina mutual burial association are purchased, and no merger, consolidation or dissolution is effectuated in connection with the purchase, the management and administrative operations of the North Carolina mutual burial association shall be transferred to the purchasing entity.

(d) In any purchase, merger, or consolidation pursuant to this section, the membership of the mutual burial association shall be guaranteed coverage in the amounts held by each member at the time of such purchase, merger, or consolidation. During the life of the member, this coverage shall not exceed the annual rate charged by the mutual burial association that is being purchased, merged, or consolidated. An insurance company which purchases, merges with, or consolidates with a North Carolina mutual burial association shall establish and maintain life insurance reserves in accordance with the insurance laws of North Carolina for those burial insurance policies existing at the time of the purchase, merger, or consolidation. A North Carolina mutual burial association or foreign mutual burial association which purchases, merges with, or

consolidates with a North Carolina mutual burial association shall establish and maintain burial insurance reserves in accordance with the burial insurance laws of North Carolina for those burial insurance policies existing at the time of the purchase, merger, or consolidation."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 1302 CHAPTER 767

AN ACT TO PERMIT CERTAIN EMPLOYEES OF THE CHARLOTTE FIRE DEPARTMENT TO PURCHASE CREDIT IN THE CHARLOTTE FIREMEN'S RETIREMENT SYSTEM FOR PRIOR SERVICE AS FIRE OFFICERS.

Whereas, when certain persons became officers of the Charlotte municipal airport fire station on March 1, 1958, they were not considered uniformed officers of the Charlotte Fire Department and could not, therefore, become members of the Charlotte Firemen's Retirement System, which was established by Chapter 926 of the 1947 Session Laws; and

Whereas, on January 15, 1960, these persons became uniformed members of the Charlotte Fire Department and members of the Charlotte Firemen's Retirement System and began making contributions thereto; and

Whereas, the following is enacted to permit these persons to purchase credit in the Charlotte Firemen's Retirement System for all their years of service as firefighters of the City of Charlotte; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Any person who became a uniformed officer of the Charlotte municipal airport fire station March 1, 1958, and who became a uniformed member of the Charlotte Fire Department and a member of the Charlotte Firemen's Retirement System January 15, 1960, and who is as of the effective date of this act, still employed as a uniformed member of the Charlotte Fire Department, shall be allowed to purchase credit in the Charlotte Firemen's Retirement System for his service as uniformed members of the airport fire station by paying into the Retirement System an amount of money equal to:

1. The amount of contributions, based upon his salary from the City and the contribution rates then in effect, that he would have paid into the Retirement System, pursuant to the Charlotte Firemen's Retirement Act, had he been a member between March 1, 1958, and January 15, 1960; and
2. The amount of contributions that the City of Charlotte would have paid into the Retirement System, pursuant to the Charlotte Firemen's Retirement Act, on his behalf had he been a member between March 1, 1958, and January 15, 1960; and
3. Interest on the amounts computed under 1 and 2, compounded at five percent (5%) per annum, from the time such contributions would have been made until the date the credit is purchased, as recommended by the Retirement System's actuary.

Upon purchase of the service credit, the purchaser shall be deemed, for purposes of the Charlotte Firemen's Retirement Act, to have been a uniformed

member of the Charlotte Fire Department and a member of the Charlotte Firemen's Retirement System from March 1, 1958.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 1331 CHAPTER 768

AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-515(3) is amended by deleting the citation "§ 146-14" and substituting the citation "G.S. 146-39".

Sec. 2. G.S. 14-86.1(e) is amended by deleting the citation "G.S. 18A-21" in both places it appears and substituting the citation "G.S. 18B-504".

Sec. 3. G.S. 20-17.1 is amended on line 3 of subsection (a) and line 2 of subsection (b) by deleting the word "admitted" and substituting the word "committed."

Sec. 4. G.S. 20-88(b)(6) is amended by deleting the citation "G.S. 20-38(39)" and substituting the citation "G.S. 20-4.01(50)."

Sec. 5. The third paragraph of G.S. 20-125(b) is amended by deleting the words "civil defense coordinators" and substituting the words "emergency management coordinators".

Sec. 5.1. G.S. 90-322(a)(2), as amended by Chapter 313 of the 1983 Session Laws, is further amended by deleting the words "other than the attending physician" the second time these words appear in that subdivision.

Sec. 5.2. G.S. 105-3(5), as amended by Chapter 706 of the 1983 Session Laws, is further amended by deleting the phrase "subsection 72(o)(5) of the United States Internal Revenue Code" and inserting in lieu thereof the phrase "26 U.S.C. § 72(o)(5)".

Sec. 6. G.S. 120-130.1(b)(12) is amended by deleting the words "civil preparedness" and substituting the words "emergency management".

Sec. 7. G.S. 115C-115(1) is amended by deleting the words "other local education agencies if the child were" and substituting the words "another local education agency if the child was".

Sec. 8. G.S. 115C-242(6) is amended by deleting the words "civil preparedness" in both places they appear and substituting the words "emergency management".

Sec. 9. The fifth sentence of G.S. 115C-302(a)(1) is amended by inserting a semicolon after the words "State employees" and before the words "on a day that".

Sec. 10. G.S. 115C-569 is amended on line 2 by deleting the word "provided" and substituting the word "Provided".

Sec. 11. G.S. 116-36.3(c) is amended by deleting the two semicolons and substituting commas.

Sec. 12. The second sentence of G.S. 120-30.28(d) is amended by deleting the period and substituting ", or the effective date of the rule cured by the curative rule, whichever date is later."

Sec. 13. G.S. 143A-42 is amended by deleting the reference "Chapter 115" and substituting the reference "Chapter 115C".

Sec. 14. G.S. 143A-43 and 143A-46 are repealed.

Sec. 15. G.S. 143A-44 is amended by deleting the reference "Chapter 115A" and substituting the reference "Chapter 115D".

Sec. 16. G.S. 143A-45 is amended by deleting the reference "Article 43 of Chapter 115" and substituting the reference "Part 5 of Article 8 of Chapter 115C".

Sec. 17. G.S. 143A-47 is amended by deleting the reference "Article 17A of Chapter 115" and substituting the reference "Article 24 of Chapter 115C".

Sec. 18. G.S. 143A-48 is amended by deleting the citation "G.S. 115-206.3" and substituting the citation "G.S. 115C-87".

Sec. 19. G.S. 150A-14(2) is amended by deleting "but which does not include any State policy or State rule as defined in G.S. 150A-10."

Sec. 20. G.S. 153A-221(b) is amended by deleting the words "Social Rehabilitation and Control" and substituting the word "Correction".

Sec. 21. The first paragraph of G.S. 153A-221.1 is amended by deleting the citation "G.S. 134-37" and substituting the citation "G.S. 134A-37".

Sec. 22. The last sentence of G.S. 160A-191 is amended by deleting the citation "G.S. 160A-191" and substituting the citation "G.S. 18B-1004(d)".

Sec. 23. The first sentence of G.S. 160A-240.1 is amended by deleting the words "or use by" and substituting the words "for use by".

Sec. 24. The last sentence of G.S. 164-15 is amended by deleting the word "Board" and substituting the word "Commission".

Sec. 25. Chapter 636 of the 1983 Session Laws is amended as follows:

(1) By substituting the word "to" for the word "by" in the 13th line of Section 13, which amends G.S. 160A-49(h);

(2) By substituting the letter "k" for the letter "j" in the 3rd line of Section 14, which amends G.S. 160A-49;

(3) By substituting the numeral "4A" for the numeral "4" in the 4th line of Section 37.1.

Sec. 25.1. Section 3 of Chapter 629, Session Laws of 1983, is amended by deleting "upon ratification" and inserting in lieu thereof "June 27, 1983".

Sec. 25.2. Chapter 629, Session Laws of 1983, as amended by Section 25.1 of this act, is reenacted.

Sec. 25.3. Section 3 of Chapter 197, Session Laws of 1983, is amended by adding the following at the end:

"Section 1.1 of this act shall become effective July 1, 1984."

Sec. 26. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 1371 CHAPTER 769

AN ACT TO ALLOW CERTAIN HOUSING AUTHORITIES TO ENGAGE IN MODERATE INCOME HOUSING.

The General Assembly of North Carolina enacts:

Section 1. Chapter 157 of the General Statutes is amended by adding a new section to read:

"§ 157-9.1. *Moderate income.*—(a) Whenever the words 'low income' appear in this Chapter, they shall be construed to mean 'low and moderate income'.

(b) This section applies only to the housing authority of the largest city in a county which has two or more cities with a population of 60,000 or over, according to the most recent decennial federal census.

(c) This act shall apply only to existing, non-federally subsidized structures."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 1400 CHAPTER 770

AN ACT TO CLARIFY THE PROVISIONS OF THE FAIR EMPLOYMENT AND DISMISSAL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-325(a)(3) is rewritten to read:

"(3) 'Day' means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply."

Sec. 2. G.S. 115C-325(a)(4) is amended by deleting the number "30" and substituting the number "60" in the first sentence.

Sec. 3. The second, third and fourth sentences of G.S. 115C-325(c)(1) are rewritten to read:

"The board shall give him written notice of that decision by June 1 of his third year of employment. If a majority of the board votes to reemploy the teacher, and if it has notified him of the decision, it may not rescind that action but must proceed under the provisions of this section for the demotion or dismissal of a teacher if it decides to terminate his employment."

Sec. 4. G.S. 115C-325(d)(2) is rewritten to read:

"(2) Whether or not he has previously attained career status as a teacher, a person who has performed the duties of a principal in the school system for three consecutive years or has performed the duties of a supervisor in the school system for three consecutive years shall not be transferred from that position to a lower paying administrative position or to a lower paying nonadministrative position without his consent except for the reasons given in G.S. 115C-325(e)(1) and in accordance with the provisions for the dismissal of a career teacher set out in this section. Transfer of a principal or a supervisor is not a transfer to a lower paying position if the principal's or supervisor's salary is maintained at the previous salary amount.

When a teacher has performed the duties of supervisor or principal for three consecutive years, the board, near the end of the third year, shall vote upon his employment for the next school year. The board shall give him written notice of that decision by June 1 of his third year of employment as a supervisor or principal. If a majority of the board votes to reemploy the teacher as a principal

or supervisor, and it has notified him of that decision, it may not rescind that action but must proceed under the provisions of this section. If a majority of the board votes not to reemploy the teacher as a principal or supervisor, he shall retain career status as a teacher if that status was attained prior to assuming the duties of supervisor or principal. A supervisor or principal who has not held that position for three years and whose contract will not be renewed for the next school year shall be notified by June 1 and shall retain career status as a teacher if that status was attained prior to assuming the duties of supervisor or principal."

Sec. 5. G.S. 115C-325(e)(2) is rewritten to read:

"(2) Before recommending to a board the dismissal or demotion of the career teacher pursuant to G.S. 115C-325(e)(1)l., the superintendent shall give written notice to the career teacher by certified mail of his intention to make such recommendation and shall set forth as part of his recommendation the grounds upon which he believes such dismissal is justified. The notice shall include a statement to the effect that if the teacher within 15 days after receipt of the notice requests a review, he shall be entitled to have the proposed recommendations of the superintendent reviewed by the board. Within the 15-day period after receipt of the notice, the career teacher may file with the superintendent a written request for a hearing before the board within 10 days. If the teacher requests a hearing before the board, the hearing procedures provided in G.S. 115C-325(j) shall be followed. If no request is made within the 15-day period, the superintendent may file his recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if there is one, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such dismissal. Provisions of this section which permit appointment of, and investigation and review by, a panel of the Professional Review Committee shall not apply to a dismissal or demotion recommended pursuant to G.S. 115C-325(e)(1)1.

When a career teacher is dismissed pursuant to G.S. 115C-325(e)(1)1. above, his name shall be placed on a list of available teachers to be maintained by the board. Career teachers whose names are placed on such a list shall have a priority on all positions for which they are qualified which become available in that system for the three consecutive years succeeding their dismissal. However, if the local school administrative unit offers the dismissed teacher a position for which he is certified and he refuses it, his name shall be removed from the priority list."

Sec. 6. G.S. 115C-325(f) is rewritten to read:

"(f) Suspension without pay. If a superintendent believes that cause exists for dismissing a probationary or career teacher for any reason specified in G.S. 115C-325(e)(1)a. through G.S. 115C-325(e)(1)j. and that immediate suspension of the teacher is necessary, the superintendent may suspend him without pay and without giving notice and a hearing. Within five days after a suspension under this paragraph, the superintendent shall initiate a dismissal as provided in this section. If it is finally determined that no grounds for dismissal exist, the teacher shall be reinstated immediately and shall be paid for the period of suspension.

A teacher recommended for suspension without pay pursuant to G.S. 115C-325(a)(4) may request a hearing before the board. If the teacher requests a

hearing before the board, the procedures provided in G.S. 115C-325(j) shall be followed. If no request is made within 15 days, the superintendent may file his recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if one is held, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such suspension. Provisions of this section which permit appointment of, and investigation and review by, a panel of the Professional Review Committee shall not apply to a suspension without pay pursuant to G.S. 115C-325(a)(4)."

Sec. 7. G.S. 115C-325(h)(3) is amended by adding a new sentence following the second sentence to read:

"A hearing conducted by the board pursuant to this subdivision shall be conducted pursuant to G.S. 115C-325(j) and (l)."

Sec. 8. G.S. 115C-325(i)(2) is amended by adding a new sentence at the end to read:

"If the panel holds a hearing, the provisions of G.S. 115C-325(j) shall apply."

Sec. 9. The second sentence of G.S. 115C-325(i)(4) is rewritten to read:

"The report shall contain an outline of the scope of its investigation, its findings as to whether or not the grounds for the recommendation are true and substantiated by a preponderance of the evidence, and a statement of the reasons for its findings."

Sec. 10. G.S. 115C-325(i)(5) and (6) are rewritten to read:

"(5) Within five days after the superintendent receives the report of the panel, the superintendent shall decide whether or not to submit a written recommendation for dismissal to the board or to drop the charges against the teacher and shall notify the teacher, in writing, of the decision. Within five days after receiving the superintendent's notice of his intent to recommend the teacher's dismissal to the board, the teacher shall decide whether to request a hearing before the board and shall notify the superintendent, in writing, of the decision. If the teacher requests a hearing before the board, the superintendent shall submit his written recommendation to the board with a copy to the teacher within five days after receiving the teacher's request. The superintendent's recommendation shall state the grounds for the recommendation and shall be accompanied by a copy of the report of the panel of the Committee.

"(6) Within seven days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and notify the teacher by certified mail of the date, time and place of the hearing. The time specified shall not be less than seven nor more than 20 days after the board has notified the teacher. If the teacher did not request a hearing, the board may, by resolution, dismiss the teacher. If the teacher can show that his request for a hearing was postmarked within the time provided, his right to a hearing is not forfeited."

Sec. 11. G.S. 115C-325(j) is amended by deleting the period at the end of the first sentence and substituting the words "or to any hearing conducted by a board pursuant to G.S. 115C-325(h)(3)." and by adding two new subdivisions to read:

"(4) Rules of evidence shall not apply to a hearing conducted pursuant to this act and boards and panels of the Professional Review Committee may give

'probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

"(5) At least five days before the hearing, the superintendent shall provide to the teacher a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness and a copy of any documentary evidence he intends to present. At least three days before the hearing, the teacher shall provide to the superintendent a list of witnesses the teacher intends to present, a brief statement of the nature of the testimony of each witness and a copy of any documentary evidence he intends to present. Additional witnesses or documentary evidence may not be presented except upon consent of both parties or upon a majority vote of the board or panel."

Sec. 12. G.S. 115C-325(k)(2) is amended by adding after the word "substantiated" the words "by a preponderance of the evidence."

Sec. 13. G.S. 115C-325(l)(4) is amended by adding a second sentence to read:

"The board's decision shall be based on a preponderance of the evidence."

Sec. 14. G.S. 115C-325(n) is rewritten to read:

"(n) Appeal. Any teacher who has been dismissed or demoted pursuant to G.S. 115C-325(e)(2), or pursuant to subsections (h), (k) or (l) of this section, or who has been suspended without pay pursuant to G.S. 115C-325(a)(4), shall have the right to appeal from the decision of the board to the superior court for the judicial district in which the teacher is employed. This appeal shall be filed within a period of 30 days after notification of the decision of the board. The cost of preparing the transcript shall be borne by the board. A teacher who has been demoted or dismissed and who has not requested a hearing before the board of education pursuant to this section shall not be entitled to judicial review of the board's action."

Sec. 15. The second paragraph of G.S. 115C-325(o) is rewritten to read:

"A probationary teacher whose contract will not be renewed for the next school year shall be notified of this fact by June 1."

Sec. 16. G.S. 115C-306 is repealed.

Sec. 17. Nothing herein shall be deemed to amend or repeal the provisions of Chapter 394 of the 1983 Session Laws.

Sec. 18. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 1401 CHAPTER 771

AN ACT PROVIDING THAT THE HENDERSON COUNTY JAIL SHALL BE OPERATED AS PROVIDED BY THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. The Henderson County jail shall be operated as provided by the General Statutes. Chapter 397, Session Laws of 1943, is repealed.

Sec. 2. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

S. B. 524 **CHAPTER 772**

AN ACT TO EXTEND DEATH BENEFITS UNDER THE WORKERS' COMPENSATION ACT.

The General Assembly of North Carolina enacts:

Section 1. The preamble paragraph of G.S. 97-38 is amended by inserting after the word "accident," where it appears the second time in the paragraph the following:

"or while total disability still continues and within two years of the final determination of total disability, whichever is later,".

Sec. 2. This act is effective upon ratification and applies to all claims where death occurs on and after that date.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 767 **CHAPTER 773**

AN ACT TO AMEND G.S. 90-108 TO PROHIBIT EMBEZZLEMENT OF CONTROLLED SUBSTANCES BY EMPLOYEES OF PRACTITIONERS AND REGISTRANTS, AND TO PROHIBIT "DOCTOR SHOPPING" AS A MEANS OF FRAUDULENTLY OBTAINING CONTROLLED SUBSTANCES FROM PRACTITIONERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-108 is amended by adding the following new subdivisions to subsection (a), to be numbered and to read as follows:

"(13) To obtain controlled substances through the use of legal prescriptions which have been obtained by the knowing and willful misrepresentation to or by the intentional withholding of information from one or more practitioners.

(14) Who is an employee of a registrant or practitioner and who is authorized to possess controlled substances or has access to controlled substances by virtue of his employment, to embezzle or fraudulently or knowingly and willfully misapply or divert to his own use or other unauthorized or illegal use or to take, make away with or secrete, with intent to embezzle or fraudulently or knowingly and willfully misapply or divert to his own use or other unauthorized or illegal use any controlled substance which shall have come into his possession or under his care."

Sec. 2. This act shall become effective August 1, 1983.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 905

CHAPTER 774

AN ACT TO ELIMINATE THE JUDICIAL COUNCIL AND RECONSTITUTE THE NORTH CAROLINA COURTS COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 31 of Chapter 7A of the General Statutes is repealed.

Sec. 2. G.S. 7A-506, as amended by Chapter 181, Session Laws of 1983, is rewritten to read:

"§ 7A-506. *Creation; members; terms; qualifications; vacancies.*—(a) The North Carolina Courts Commission is hereby created. Effective July 1, 1983, it shall consist of 24 members, six to be appointed by the Governor, six to be appointed by the Speaker of the House of Representatives, six to be appointed by the President of the Senate, and six to be appointed by the Chief Justice of the Supreme Court.

(b) Of the appointees of the Chief Justice of the Supreme Court, one shall be a Justice of the Supreme Court, one shall be a Judge of the Court of Appeals, two shall be judges of superior court, and two shall be district court judges.

(c) Of the six appointees of the Governor, one shall be a district attorney, one shall be a practicing attorney, one shall be a clerk of superior court, at least three shall be members or former members of the General Assembly, and at least one shall not be an attorney.

(d) Of the six appointees of the Speaker of the House, at least three shall be practicing attorneys, at least three shall be members or former members of the General Assembly, and at least one shall not be an attorney.

(e) Of the six appointees of the President of the Senate, at least three shall be practicing attorneys, at least three shall be members or former members of the General Assembly, and at least one shall be a magistrate.

(f) Of the initial appointments of each appointing authority, three shall be appointed for four-year terms to begin July 1, 1983, and three shall be appointed for two-year terms to begin July 1, 1983. Successors shall be appointed for four-year terms.

(g) A vacancy in membership shall be filled for the remainder of the unexpired term by the appointing authority who made the original appointment. A member whose term expires may be reappointed."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 645

CHAPTER 775

AN ACT TO RECODIFY THE PUBLIC HOSPITAL LAWS IN CHAPTERS 131 AND 131B AND IN PORTIONS OF CHAPTER 130 OF THE GENERAL STATUTES.

Whereas, the General Assembly with the ratification of House Resolution 215 directed the North Carolina Department of Human Resources to conduct a recodification study of the public health statutes, particularly those in Chapters 130 and 131 of the General Statutes; and

Whereas, the North Carolina Department of Human Resources has reviewed the public hospital laws in Chapter 131 and the public health laws in Chapter 130; and

Whereas, the North Carolina Department of Human Resources has recommended a Recodification Act that rewrites and reorganizes the basic provisions of Chapters 131 and 131B, that repeals the obsolete provisions of those Chapters and that incorporates some parts of Chapter 130; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapters 131 and 131B of the General Statutes and Sections 3(a), 9(e), 9.5, 9.7, 170.1, 170.2, 230, 232 through 235, and 264 through 277 of Chapter 130 of the General Statutes are repealed and a new Chapter 131E substituted in lieu thereof to read:

"Health Care Facilities and Services.

"Article 1.

"General Provisions.

"§ 131E-1. *Definitions.*—As used in this Chapter, unless the context clearly indicates otherwise:

(1) 'Department' means the Department of Human Resources.

(2) 'Person' means an individual, trust, estate, partnership, or corporation including associations, joint stock companies, and insurance companies.

"§ 131E-2 through 131E-4. Reserved for future codification purposes.

"Article 2. Public Hospitals.

"Part A. Municipal Hospitals.

"§ 131E-5. *Title and purpose.*—(a) This Part shall be known and may be cited as the 'Municipal Hospital Act'.

(b) The purpose of this Part is to authorize municipalities to construct, operate and maintain hospitals and other facilities which furnish hospital, clinical and similar services to the people of this State. It is also the purpose of this Part to authorize municipalities to cooperate with other public and private agencies and with each other. Additionally, it is the purpose of this Part to authorize municipalities to accept assistance from State and federal agencies and from other sources.

(c) This Part provides an additional and alternative method for municipalities to establish facilities that furnish hospital, clinical and similar services. This Part shall not be regarded as repealing any powers now existing under any other law, either general, special or local.

(d) This Part shall be construed liberally to effect its purposes.

"§ 131E-6. *Definitions.*—As used in this Part, unless otherwise specified:

(1) 'City', as defined in G.S. 160A-1(2), means a municipal corporation organized under the laws of this State for the better government of the people within its jurisdiction and having the powers, duties, privileges, and immunities conferred by law on cities, towns, and villages. The term 'city' does not include counties or municipal corporations organized for a special purpose under any statute or law. The word 'city' is interchangeable with the words 'town' and 'village' and shall mean any city as defined in this subdivision without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.

(2) 'Community general hospital' means a short-term nonfederal hospital that provides diagnostic and therapeutic services to patients for a variety of medical conditions, both surgical and nonsurgical, such services being available for use primarily by residents of the community in which it is located.

(3) 'Corporation, foreign or domestic, authorized to do business in North Carolina' means a corporation for profit or having a capital stock which is created and organized under Chapter 55 of the General Statutes or any other general or special act of this State, or a foreign corporation which has procured a certificate of authority to transact business in this State pursuant to Article 10 of Chapter 55 of the General Statutes.

(4) 'Hospital facility' means any type of hospital; facility operated in connection with a hospital such as a clinic, including mental health clinics; nursing, convalescent, or rehabilitative facility; public health center; or any facility of a local health department. The term 'hospital facility' also includes related facilities such as laboratories, outpatient departments, housing and training facilities for nurses and other health care professionals, central service facilities operated in connection with hospitals, and all equipment necessary for its operation.

(5) 'Municipality' means any county, city, or other political subdivision of this State, or any hospital district created under Part C of this Article.

(6) 'Nonprofit association' or 'nonprofit corporation' means any association or corporation from which no part of the net earnings inures or may lawfully inure to the benefit of a private shareholder or individual.

"§ 131E-7. *General powers.*—(a) A municipality shall have all the powers necessary or convenient to carry out the purposes of this Part, including the following powers, which are in addition to the powers granted elsewhere in this Part:

(1) to construct, equip, operate, and maintain hospital facilities;

(2) to levy property taxes pursuant to G.S. 153A-149 or G.S. 160A-209 and to allocate those and other revenues whose use is not otherwise restricted by law to fund hospital facilities; a hospital district may levy annually a tax on property having a situs in the district under the rules and according to the procedures prescribed in the Machinery Act, Chapter 105 of the General Statutes, Subchapter II, and a hospital district may allocate those and other revenues whose use is not otherwise restricted by law to fund hospital facilities;

(3) to issue bonds and notes pursuant to the Local Government Finance Act, Chapter 159 of the General Statutes, for the financing of hospital facilities;

(4) to use property owned or controlled by the municipality;

(5) to acquire real or personal property, including existing hospital facilities, by purchase, grant, gift, devise, lease, condemnation, or otherwise;

(6) to establish a fee schedule for services received from hospital facilities and to make services available regardless of ability to pay;

(b) A municipality may contract with or otherwise arrange with other municipalities of this or other states, federal or public agencies or with any person, private organization or nonprofit association for the provision of hospital, clinical, or similar services. The municipality may pay for these services from appropriations or other moneys available for these purposes.

(c) Any two or more municipalities may enter into agreements to jointly exercise the powers, privileges, and authorities granted by this Part. These agreements may provide for:

(1) The appointment of a board, composed of representatives of the parties to the agreement, to supervise and manage a hospital facility;

(2) The authority and duties of the board and the compensation of its members;

(3) The proportional share of the costs of acquisition, construction, improvement, maintenance, or operation of hospital facilities;

(4) The duration, amendment, and termination of the agreement and the disposition of property on termination of the agreement; and

(5) Any other matters as necessary.

(d) A municipality may lease any hospital facility, or part, to a nonprofit association on terms and conditions consistent with the purposes of this Part. The municipality will determine the length of the lease. No lease executed under this subsection shall be deemed to convey a freehold interest.

(e) A municipality shall not sell nor convey any rights of ownership the municipality has in any hospital facility, including the buildings, land and equipment associated with the hospital, to any corporation or other business entity operated for profit, except that nothing herein shall prohibit the sale of surplus buildings, surplus land or surplus equipment by a municipality to any corporation or other business entity operated for profit.

A municipality may lease any hospital facility, or part, to any corporation, foreign or domestic, authorized to do business in North Carolina on terms and conditions consistent with the purposes of this Part and with G.S. 160A-272. The municipality shall determine the length of the lease; however, no lease under this subsection shall be longer than 10 years, including options to renew or extend the original term of the lease, except that leases of surplus buildings, surplus land or surplus equipment may be for any length of time determined by the municipality. The lease shall provide that the hospital facility will be operated as a community general hospital open to the general public and that the lessee will accept Medicare and Medicaid patients. No lease executed under this subsection shall be deemed to convey a freehold interest. No bonds, notes nor other evidences of indebtedness shall be issued by a municipality to finance equipment for or the acquisition, extension, construction, reconstruction, improvement, enlargement, or betterment of any hospital facility when the facility is leased to a corporation, foreign or domestic, authorized to do business in North Carolina.

For purposes of this subsection, 'surplus' means any building, land or equipment which is not required for use in the delivery of necessary health care services by a hospital facility at the time of the sale, conveyance of ownership rights, or lease.

This subsection shall not be construed to affect any pending litigation nor to reflect any legislative intent as to any prior authorized or executed agreements. This subsection shall be effective from the effective date of this act until June 30, 1984.

(f) In addition to the general and special powers conferred by this Part, a municipality is authorized to exercise powers necessary to implement the powers under this Part.

"§ 131E-8. *Sale of hospital facilities to nonprofit corporations.*—(a) A municipality as defined in G.S. 131E-6(5) or hospital authority as defined in G.S. 131E-16(14), upon such terms and conditions as it deems wise, with or without monetary consideration, may sell or convey to a nonprofit corporation

organized under Chapter 55A of the General Statutes any rights of ownership the municipality or hospital authority has in a hospital facility including the building, land and equipment associated with the hospital, if the nonprofit corporation is legally committed to continue to operate the facility as a community general hospital open to the general public, free of discrimination based upon race, creed, color, sex or national origin. The nonprofit corporation shall also agree, as a condition of the municipality or hospital authority's conveying ownership, to provide such services to indigent patients as the municipality or hospital authority and the nonprofit corporation shall agree. The nonprofit corporation shall further agree that should it fail to operate the facility as a community general hospital open to the general public or should the nonprofit corporation dissolve without a successor nonprofit corporation to carry out the terms and conditions of the agreement of conveyance, all ownership rights in the hospital facility, including the building, land and equipment associated with the hospital, shall revert to the municipality or hospital authority or successor entity originally conveying the hospital.

(b) When either general obligation bonds or revenue bonds issued for the benefit of the hospital to be conveyed are outstanding at the time of sale or conveyance, then the nonprofit corporation must agree to the following:

By the effective date of sale or conveyance, the nonprofit corporation shall place into an escrow fund money or direct obligations of, or obligations the principal of and interest on which, are unconditionally guaranteed by the United States of America (as approved by the Local Government Commission), the principal of and interest on which, when due and payable, will provide sufficient money to pay the principal of and the interest and redemption premium, if any, on all bonds then outstanding to the maturity date or dates of such bonds or to the date or dates specified for the redemption thereof. The nonprofit corporation shall furnish to the Local Government Commission such evidence as the Commission may require that the securities purchased will satisfy the requirements of this section.

A hospital which has placed funds in escrow to retire outstanding general obligation or revenue bonds, as provided in this section, shall not be considered a public hospital, and G.S. 159-39(a)(3) shall be inapplicable to such hospitals.

(c) Any sale or conveyance under this section must be approved by the municipality or hospital authority by a resolution adopted at a regular meeting of the governing body on 10 days' public notice. Notice shall be given by publication describing the hospital facility to be conveyed, the proposed monetary consideration or lack thereof, and the governing body's intent to authorize the sale or conveyance.

(d) Neither G.S. 153A-176 nor Article 12 of Chapter 160A of the General Statutes shall apply to sales or conveyances pursuant to this section.

"§ 131E-9. *Governing authority of hospital facilities.*—(a) The governing body of a municipality may establish by resolution an office, board, or other municipal agency to plan, establish, construct, maintain, or operate a hospital facility. The resolution shall prescribe the powers, duties, compensation, and tenure of the members of the governing authority. The municipality shall remain responsible for the expenses of planning, establishment, construction, maintenance and operation of the hospital facilities.

(b) (1) The county board of commissioners of a county may establish by resolution a county hospital authority to plan, establish, construct, maintain, or operate a hospital facility. The authority shall be referred to as '____ County Hospital Authority.'

(2) The county hospital authority shall consist of six appointed members and one ex officio member.

(3) The appointed members of the authority shall be appointed by the county board of commissioners. All appointed members shall be residents of the county. Three of the members shall be residents of a city in the county and the remaining three members shall not be residents of the same city or cities in which the other three members appointed under this subdivision reside.

(4) For the initial appointments to the county hospital authority, two of the members shall be appointed for a term of three years, two for a term of four years, and two for a term of five years to achieve staggered terms. All subsequent appointments shall be for five-year terms.

(5) The ex officio member of the county hospital authority shall be a member of the county board of commissioners. The ex officio member's term on the hospital authority shall be commensurate with his or her term as a member of the county board of commissioners.

(6) When any member of the county hospital authority resigns or is removed from office before the expiration of the member's term, the county board of commissioners shall appoint a person to serve the unexpired portion of the term.

(c) Any authority vested in a county under this Part or any authority or power that may be exercised by a hospital authority under the Hospital Authorities Act, Chapter 131E, Article 2, Part B, may be vested by resolution of the county board of commissioners in a county hospital authority established under this section. However, a county hospital authority shall exercise only the powers and duties prescribed in the county board of commissioners' resolution. The county board of commissioners shall determine in the resolution the compensation, traveling and any other expenses which shall be paid to each member of the county hospital authority. However, the expenses to plan, establish, construct and operate the hospital facility shall remain the responsibility of the county.

"§ 131E-10. *Condemnation.*—Every municipality is authorized to condemn property to carry out the purposes of this Part. In condemning property, a municipality shall proceed in the manner provided in Chapter 40A of the General Statutes or in the charter of the municipality. A municipality or its agents is authorized to enter upon land, provided no unnecessary damage is done, to make surveys and examinations relative to any condemnation proceeding. Notwithstanding the provisions of any other statute or of any applicable municipal charter, the municipality may take possession of property to be condemned at any time after the commencement of the condemnation proceeding. The municipality shall not be precluded from abandonment of the condemnation of property in any case where possession has not taken place.

"§ 131E-11. *Federal and State aid.*—Every municipality or nonprofit association is authorized to accept and disburse federal and State moneys, whether made available by grant, loan, gift or devise, to carry out the purposes of this Part. All federal moneys shall be accepted and disbursed upon the terms

and conditions prescribed by the United States, if the terms and conditions are consistent with State law. All State moneys shall be accepted and disbursed upon the terms and conditions prescribed by either or both the State and the North Carolina Medical Care Commission. Unless the terms and conditions provide otherwise, the chief financial officer of the municipality shall deposit all moneys received under this section and keep them in separate trust funds.

"§ 131E-12. *Public purposes.*—The exercise of the powers, privileges, and authorities conferred on municipalities by this Part are public and governmental functions, exercised for a public purpose and matters of public necessity. In the case of a county, the exercise of the powers, privileges and authorities conferred by this Part is a county function and purpose, as well as a public and governmental function. In the case of any municipality other than a county, the exercise of the powers, privileges, and authorities conferred by this Part is a municipal function and purpose, as well as a public and governmental function.

"§ 131E-13 through 131E-14. Reserved for future codification purposes.

"Part B. Hospital Authority.

"§ 131E-15. *Title and purpose.*—(a) This Part shall be known as the 'Hospital Authorities Act'.

(b) The General Assembly finds and declares that in order to protect the public health, safety, and welfare, including that of low income persons, it is necessary that counties and cities be authorized to provide adequate hospital, medical, and health care and that the provision of such care is a public purpose. Therefore, the purpose of this Part is to provide an alternate method for counties and cities to provide hospital, medical, and health care.

"§ 131E-16. *Definitions.*—As used in this Part, unless otherwise specified:

(1) 'Board of county commissioners' means the legislative body charged with governing the county.

(2) 'Bonds' means any bonds or notes issued by the hospital authority pursuant to this Part and the Local Government Finance Act, Chapter 159 of the General Statutes.

(3) 'City' means any city or town which is, or is about to be, included in the territorial boundaries of a hospital authority when created hereunder.

(4) 'City clerk' and 'mayor' means the clerk and mayor, respectively, of the city, or the officers thereof charged with the duties customarily imposed on the clerk and mayor, respectively.

(5) 'City council' means the legislative body, council, board of commissioners, board of trustees, or other body charged with governing the city or town.

(6) 'Commissioner' means one of the members of a hospital authority appointed in accordance with the provisions of this Part.

(7) 'Community general hospital' means a short-term nonfederal hospital that provides diagnostic and therapeutic services to patients for a variety of medical conditions, both surgical and nonsurgical, such services being available for use primarily by residents of the community in which it is located.

(8) 'Contract' means any agreement of a hospital authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

(9) 'Corporation, foreign or domestic, authorized to do business in North Carolina means a corporation for profit or having a capital stock which is created and organized under Chapter 55 of the General Statutes or any other

general or special act of this State, or a foreign corporation which has procured a certificate of authority to transact business in this State pursuant to Article 10 of Chapter 55 of the General Statutes.

(10) 'County' means the county which is, or is about to be, included in the territorial boundaries of a hospital authority when created hereunder.

(11) 'County clerk' and 'chairman of the board of county commissioners' means the clerk and chairman, respectively, of the county or the officers thereof charged with the duties customarily imposed on the clerk and chairman, respectively.

(12) 'Federal government' means the United States of America, or any agency, instrumentality, corporate or otherwise, of the United States of America.

(13) 'Government' means the State and federal governments and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

(14) 'Hospital authority' means a public body and a body corporate and politic organized under the provisions of this Part.

(15) 'Hospital facilities' means any one or more buildings, structures, additions, extensions, improvements or other facilities, whether or not located on the same site or sites, machinery, equipment, furnishings or other real or personal property suitable for health care or medical care; and includes, without limitation, general hospitals; chronic disease, maternity, mental, tuberculosis and other specialized hospitals; nursing homes, including skilled nursing facilities and intermediate care facilities; domiciliary homes for the aged and disabled; public health center facilities; housing or quarters for local public health departments; facilities for intensive care and self-care; clinics and outpatient facilities; clinical, pathological and other laboratories; health care research facilities; laundries; residences and training facilities for nurses, interns, physicians and other staff members; food preparation and food service facilities; administrative buildings, central service and other administrative facilities; communication, computer and other electronic facilities; fire-fighting facilities; pharmaceutical and recreational facilities; storage space; X-ray, laser, radiotherapy and other apparatus and equipment; dispensaries; utilities; vehicular parking lots and garages; office facilities for hospital staff members and physicians; and such other health and hospital facilities customarily under the jurisdiction of or provided by hospitals, or any combination of the foregoing, with all necessary, convenient or related interests in land, machinery, apparatus, appliances, equipment, furnishings, appurtenances, site preparation, landscaping and physical amenities.

(16) 'Municipality' means any county, city, town or incorporated village, other than a city as defined above, which is located within or partially within the territorial boundaries of an authority.

(17) 'Real property' means lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

(18) 'State' means the State of North Carolina.

"§ 131E-17. *Creation of a hospital authority.*—(a) A hospital authority may be created whenever a city council or a county board of commissioners finds and

adopts a resolution finding that it is in the interest of the public health and welfare to create a hospital authority.

(b) After the adoption of a resolution creating a hospital authority, the mayor or the chairman of the county board of commissioners shall appoint commissioners in accordance with G.S. 131E-18.

(c) The commissioners shall be a public body and a body corporate and politic upon the completion of the procedures described in G.S. 131E-19.

"§ 131E-18. *Commissioners.*—(a) The mayor or the chairman of the county board shall appoint the commissioners of the authority. There shall be not less than six and not more than 30 commissioners. Upon a finding that it is in the public interest, the commissioners may adopt a resolution increasing or decreasing the number of commissioners by a fixed number; provided that no decrease in the number of commissioners shall shorten a commissioner's term. A certified copy of the resolution and a list of nominees shall be submitted to the mayor or the chairman of the county board of commssioners for appointments in accordance with the procedures set forth in subsection (d) of this section.

(b) For the initial appointments of commissioners, one third of the commissioners shall be appointed for a term of one year, one third for a term of two years, and one third for a term of three years to achieve staggered terms. All subsequent appointments shall be for three-year terms. A commissioner shall hold office until a successor has been appointed and qualified. Vacancies from resignation or removal from office shall be filled for the unexpired portion of the term.

(c) The mayor or the chairman of the county board of commissioners shall name the first chair of the authority. Thereafter, the commissioners shall elect each subsequent chair from their members. The commissioners shall elect from their members the first vice-chair and all subsequent vice-chairs.

(d) When a commissioner resigns, is removed from office, completes a term of office, or when there is an increase in the number of commissioners, the remaining commissioners shall submit to the mayor or the chairman of the county board of commissioners a list of nominees for appointment to the commission. The mayor or the chairman of the county board of commissioners shall appoint, only from the nominees, the number of commissioners necessary to fill all vacancies. However, the mayor or the chairman of the county board of commissioners may require the commissioners to submit as many additional lists of nominees as he or she may desire.

(e) The mayor shall file with the city clerk, or the chairman of the county board of commissioners shall file with the county clerk, a certificate of appointment or reappointment of a commissioner. The certificate shall be conclusive evidence of the due and proper appointment of the commissioner.

(f) Commissioners shall receive no compensation for their services, but they shall be entitled to reimbursement for necessary expenses, including travel expenses, incurred in the discharge of their duties.

(g) For a county with a population of less than 75,000, according to the most recent decennial federal census, the following exceptions to the provisions of this section shall apply:

(1) the commissioners shall be appointed by the county board of commissioners rather than the chairman of the county board of commissioners;

(2) in making appointments under subsection (d) of this section, the county board of commissioners shall consider the nominations of the commissioners of the authority, but the county board of the commissioners is not bound by the nominations and may choose any qualified person.

The foregoing exceptions shall not apply when a county with a population of less than 75,000 jointly establishes a hospital authority with a city.

(h) A majority of the commissioners shall constitute a quorum.

"§ 131E-19. *Incorporation of a hospital authority.*—(a) After the commissioners are appointed, they shall present to the Secretary of State an application for incorporation as a hospital authority. The application shall be signed by each of the commissioners and shall set forth:

(1) That the city council or the county board of commissioners has found that it is in the interest of the public health and welfare to create a hospital authority;

(2) That the mayor or the chairman of the county board of commissioners has appointed them as commissioners;

(3) The name and official residence of each of the commissioners;

(4) A certified copy of the appointment evidencing the commissioners' right to office, and the date and place of induction into and taking of office;

(5) That they desire the hospital authority to become a public body and a body corporate and politic under this Part;

(6) The term of office of each of the commissioners;

(7) The name which is proposed for the corporation; and

(8) The location and principal office of the corporation.

The application shall be subscribed and sworn to by each of the commissioners before an officer authorized by the laws of this State to take and certify oaths. This officer shall certify upon the application that he or she personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed to the application and took the oath in the officer's presence.

(b) The Secretary of State shall examine the application. If he or she finds that the name proposed for the corporation is not identical with that of a person or of any other corporation in this State or so nearly similar so as to lead to confusion and uncertainty, the application shall be filed and recorded in the appropriate book of record in the Secretary of State's Office. The Secretary of State shall then make and issue to the commissioners a certificate of incorporation pursuant to this Part, under the Seal of the State, and shall record the certificate with the application.

(c) A hospital authority's name or the location or principal office of the corporation may be changed by the adoption of a resolution by the majority of the authority's commissioners. A copy of the resolution, duly verified by the chair and secretary of the commission before an officer authorized by the laws of this State to take and certify oaths, shall be delivered to the Secretary of State, along with a conformed copy. If the Secretary of State finds that the proposed name is not identical with that of a person or any corporation of this State, or so nearly similar as to lead to confusion and uncertainty, the resolution shall be filed and recorded in the appropriate book of record in the Secretary of State's Office. A resolution changing the location or principal office

of the hospital authority shall be filed and recorded in the appropriate book of record in the Secretary of State's Office. The Secretary of State shall then return to the authority the conformed copy, together with a certificate stating that the attached copy is a true copy of the document in the Secretary of State's Office, that shows the date of filing.

(d) In any legal proceeding, a copy of the certificate of incorporation, certified by the Secretary of State, shall be admissible in evidence and shall be conclusive proof of its filing and contents and the incorporation of the hospital authority in accordance with this Part.

"§ 131E-20. *Boundaries of the authority.*—(a) The territorial boundaries of a hospital authority shall include the city or county creating the authority and the area within 10 miles from the territorial boundaries of that city or county. In no event shall the territorial boundaries of a hospital authority include, in whole or in part, the area of any previously existing hospital authority. All priorities shall be determined on the basis of the time of issuance of the certificates of incorporation by the Secretary of State.

(b) After the creation of an authority, the subsequent existence within its territorial boundaries of more than one city or county shall in no way affect the territorial boundaries of the authority.

"§ 131E-21. *Conflict of interest.*—No commissioner or employee of the hospital authority shall:

(1) acquire any interest, direct or indirect, in any hospital facility or in any property included or planned to be included in a hospital facility; or

(2) have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any hospital facility, except an employment contract for an employee. The foregoing restriction shall not apply to any contract, undertaking, or other transaction with a bank or banking institution, savings and loan association or public utility in the regular course of its business; provided that any such contract, undertaking, or other transaction shall be authorized by the commissioners by specific resolution on which no commissioner having an interest, direct or indirect, shall vote.

If a commissioner or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any hospital facility, the commissioner or employee shall immediately disclose the same in writing to the authority and the disclosure shall be entered upon the minutes of the authority. Failure to disclose shall constitute misconduct in office and shall be grounds for a commissioner's removal from office under G.S. 131E-22.

"§ 131E-22. *Removal of commissioners.*—(a) The appointing authority, as stated in G.S. 131E-18, may remove a commissioner for inefficiency, neglect of duty, or misconduct in office. A commissioner may be removed only after he or she has been given a copy of the charges and provided the opportunity to be heard in person or by counsel. A commissioner is entitled to at least 10 days after receipt of the notice to prepare for a hearing before the mayor or the chairman of the county.

(b) An obligee of the authority may file with the mayor or the chairman of the county board of commissioners written charges that the authority is willfully violating the laws of the State or a term, provision, or covenant to any contract to which the authority is a party. The mayor or the chairman of the

county board of commissioners shall give each of the commissioners a copy of the charges at least 10 days prior to the hearing on the charges. The commissioners shall be provided an opportunity to be heard in person or by counsel. The mayor or the chairman of the county board of commissioners shall, within 15 days after receipt of the charges, remove any commissioners of the authority who are found to have acquiesced in any willful violation. If a commissioner has not filed a written statement before the hearing with the authority stating his or her objections to or lack of participation in the violation, the commissioner shall be deemed to have acquiesced in a willful violation.

(c) If, after due and diligent search, a commissioner to whom charges are required to be delivered cannot be found within the county where the authority is located, the charges shall be deemed to be served upon the commissioner when it is mailed to the commissioner at the commissioner's last known address as the same appears on the records of the authority.

(d) In the event of the removal of any commissioner, the mayor shall file in the office of the city clerk, or the chairman of the county board of commissioners shall file with the county clerk, a record of the proceedings together with the charges against the commissioner and the findings.

"§ 131E-23. *Powers of the authority.*—(a) An authority shall have all powers necessary or convenient to carry out the purposes of this Part, including the following powers, which are in addition to those powers granted elsewhere in this Part:

(1) To investigate hospital, medical, and health conditions and the means of improving those conditions;

(2) To determine where inadequate hospital and medical facilities exist;

(3) To accept donations of money, personal property, or real estate for the benefit of the authority and to take title to the same from any person, firm, corporation or society;

(4) To acquire by purchase, gift, devise, lease, condemnation, or otherwise any existing hospital facilities;

(5) To purchase, lease, obtain options upon, or otherwise acquire any real or personal property or any interest therein from any person, firm, corporation, city, county, or government;

(6) To sell, exchange, transfer, assign, or pledge any real or personal property or any interest therein to any person, firm, corporation, city, county or government;

(7) To own, hold, clear and improve property;

(8) To borrow money upon its bonds, notes, debentures, or evidences of indebtedness, as provided for in G.S. 131E-26 and G.S. 131E-27;

(9) To purchase real or personal property pursuant to G.S. 131E-32;

(10) To appoint an administrator of a hospital facility and necessary assistants, and any and all other employees necessary or advisable, to fix their compensation, to adopt necessary rules governing their employment, and to remove employees;

(11) To delegate to its agents or employees any powers or duties as it may deem appropriate;

(12) To employ its own counsel and legal staff;

(13) To adopt, amend and repeal bylaws for the conduct of its business;

(14) To enter into contracts for necessary supplies, equipment, or services for the operation of its business;

(15) To appoint committees or subcommittees as it shall deem advisable, to fix their duties and responsibilities, and to do all things necessary in connection with the construction, repair, reconstruction, management, supervision, control and operation of the authority's business;

(16) To establish procedures for health care providers to secure the privilege of practicing within any hospital operated by the authority pursuant to Part B of Article 5 of this Chapter;

(17) To establish reasonable rules governing the conduct of health care providers while on duty in any hospital operated by the facility pursuant to Part B of Article 5 of this Chapter;

(18) To provide for the construction, reconstruction, improvement, alteration or repair of any hospital facility, or any part of a facility;

(19) To enter into any contracts or other arrangements with any municipality, other public agency of this or any other State or of the United States, or with any individual, private organization, or nonprofit association for the provision of hospital, clinical, or similar services;

(20) Subject to subsection (c), to lease any hospital facilities to or from any municipality, other public agency of this or any other state or of the United States, or to any individual, corporation, or association upon any terms and subject to any conditions as may carry out the purposes of this Part. Subject to subsection (c), the authority may provide for the lessee to use, operate, manage and control the hospital facilities, and to exercise designated powers, in the same manner as the authority itself might do;

(21) To act as an agent for the federal, State or local government in connection with the acquisition, construction, operation or management of a hospital facility, or any part thereof;

(22) To arrange with the State, its subdivisions and agencies, and any county or city, to the extent it is within the scope of their respective functions,

(a) to cause the services customarily provided by each to be rendered for the benefit of the hospital authority,

(b) to furnish, plan, replan, install, open or close streets, roads, alleys, sidewalks or similar facilities and to acquire property, options or property rights for the furnishing of property or services for a hospital facility, and

(c) to provide and maintain parks and sewage, water and other facilities for hospital facilities and to lease and rent any of the dwellings or other accommodations or any of the lands, buildings, structures or facilities embraced in any hospital facility and to establish and revise the rents and charges;

(23) To insure the property or the operations of the authority against risks as the authority may deem advisable;

(24) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which trustees, guardians, executors, administrators, and others acting in a fiduciary capacity may legally invest funds under their control;

(25) To sue and be sued;

(26) To have a seal and to alter it at pleasure;

(27) To have perpetual succession;

(28) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority;

(29) To remove vehicles parked on land owned or leased by the hospital authority in areas clearly designated as no parking or restricted parking zones. An owner of a removed vehicle as a condition of regaining possession of the vehicle, shall reimburse the hospital authority for all reasonable costs, not to exceed fifty dollars ($50.00), incidental to the removal and storage of the vehicle provided that the designation of the area as a no parking or restricted parking zone clearly indicates that the owner may be subject to these costs;

(30) To plan and operate hospital facilities;

(31) To provide teaching and instruction programs and schools for medical students, interns, physicians, nurses, technicians and other health care professionals;

(32) To provide and maintain continuous resident physician and intern medical services;

(33) To adopt, amend and repeal rules and regulations governing the admission of patients and the care, conduct, and treatment of patients;

(34) To establish a fee schedule for services received from hospital facilities and make the services available regardless of ability to pay;

(35) To maintain and operate isolation wards for the care and treatment of mental, contagious, or other similar diseases;

(36) To sell a hospital facility pursuant to G.S. 131E-8; and

(37) To agree to limitations upon the exercise of any powers conferred upon the hospital authority by this Part in connection with any loan by a government.

(b) A hospital authority may exercise any or all of the powers conferred upon it by this Part, either generally or with respect to any specific hospital facility or facilities, through or by designated agents, including any corporation or corporations which are or shall be formed under the laws of this State.

(c) A hospital authority shall not sell nor convey any rights of ownership the authority has in any hospital facility as defined in G.S. 131E-6(4), including the buildings, land and equipment associated with the hospital, to any corporation or other business entity operated for profit, except that nothing herein shall prohibit the sale of surplus buildings, land or equipment by a hospital authority to any corporation or other business entity operated for profit.

A hospital authority may lease any hospital facility or part to any corporation, foreign or domestic, authorized to do business in North Carolina, on terms and conditions consistent with the purposes of this Part. The hospital authority shall determine the length of the lease; however, no lease under this subsection shall be longer than 10 years, including options to renew or extend the original term of the lease, except that leases of surplus buildings, land or equipment may be for any length of time determined by the hospital authority. The lease shall provide that the hospital facility will be operated as a community general hospital open to the general public and that the lessee will accept Medicare and Medicaid patients. No lease executed under this subsection shall be deemed to convey a freehold interest. No bonds, notes nor other evidences of indebtedness shall be issued by a hospital authority to finance

equipment for or the acquisition, extension, construction, reconstruction, improvement, enlargement, or betterment of any hospital facility when the facility is leased to a corporation, foreign or domestic, authorized to do business in North Carolina.

For purposes of this subsection, 'surplus' means any building, land or equipment which is not required for use in the delivery of necessary health care services by a hospital facility at the time of the sale, conveyance of ownership rights, or lease.

This subsection shall not be construed to affect any pending litigation nor to reflect any legislative intent as to any prior authorized or executed agreements. This subsection shall be effective from the effective date of this Part until June 30, 1984.

(d) No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to a hospital authority unless otherwise specified by the General Assembly.

"§ 131E-24. *Eminent domain.*—(a) A hospital authority may acquire by eminent domain any real property, including fixtures and improvements, which it deems necessary to carry out the purposes of this Part. The hospital authority may exercise the power of eminent domain under the provisions of Chapter 40A of the General Statutes or any other statute now in force or subsequently enacted for the exercise of the power of eminent domain.

(b) No property belonging to any city, town, or county, any government, religious or charitable organization, or to any existing hospital or clinic may be acquired without its consent. No property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or agency, if any, having regulatory power over the corporation.

(c) The right of eminent domain shall not be exercised unless and until a certificate of public convenience and necessity for the facility has been issued by the North Carolina Utilities Commission. The proceedings leading up to issuing of the certificate of public convenience and necessity, and the right of appeal from the proceedings shall be governed by the Public Utilities Act, Chapter 62 of the General Statutes, and the rights under that act are hereby expressly reserved to all interested parties in the proceedings. In addition to the powers now granted by law to the North Carolina Utilities Commission, the Utilities Commission is authorized to investigate and examine all facilities set up or attempted to be set up under this Part and to determine the question of public convenience and necessity for the facility.

"§ 131E-25. *Zoning and building laws.*—All hospital facilities of the authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the hospital facility is situated.

"§ 131E-26. *Revenue bonds and notes.*—(a) A hospital authority shall have the power to issue revenue bonds under the Local Government Revenue Bond Act, Chapter 159 of the General Statutes, Article 5, or the bond and revenue anticipation provisions of Chapter 159 of the General Statutes, Article 9, for the purpose of acquiring, constructing, reconstructing, improving, enlarging, bettering, equipping, extending or operating hospital facilities.

(b) A hospital authority shall have the power to borrow for the purposes above enumerated upon its notes or other evidences of indebtedness, subject to the approval of the Local Government Commission as provided in G.S.

131E-32(c). Such approval shall be required regardless of the amount of any such borrowing. Any borrowing by a hospital authority before the date of ratification of Part B of Article 2 of this Chapter, whether or not approved by the Local Government Commission, is valid, ratified and confirmed.

"§ 131E-27. *Contracts with federal government.*—A hospital authority is authorized:

(1) To borrow money and accept grants from the federal government for or to aid in the construction of a hospital facility;

(2) To acquire any land acquired by the federal government for the construction of a hospital facility; and

(3) To acquire, lease or manage any hospital facility constructed or owned by the federal government.

To these ends, a hospital authority is authorized to enter into contracts, mortgages, trust indentures, leases or other agreements giving the federal government the right to supervise and approve the construction, maintenance and operation of the hospital facility. It is the purpose and intent of this Part to authorize every hospital authority to do any and all things necessary to secure the financial aid and cooperation of the federal government in the construction, maintenance, and operation of hospital facilities.

"§ 131E-28. *Tax exemptions.*—(a) Hospital authorities shall be exempt from the payment of taxes or fees to the State or any of its subdivisions, or to any officer or employee of the State or any of its subdivisions.

(b) Hospital authority property used for public purposes shall be exempt from all local and municipal taxes and for the purposes of this tax exemption, an authority shall be deemed to be a municipal corporation.

(c) Bonds, notes, debentures or other evidences of indebtedness of a hospital authority issued under the Local Government Revenue Bond Act, Chapter 159 of the General Statutes, Article 5, or issued pursuant to the bond and revenue anticipation provisions of Chapter 159 of the General Statutes, Article 9, or issued pursuant to G.S. 131E-26(b) or contracted pursuant to G.S. 131E-32 and the transfer of and income from such instruments, including profits on sales, shall at all times be free from taxation by the State or any of its subdivisions, except for inheritance or gift taxes.

"§ 131E-29. *Audits and recommendations.*—Each hospital authority shall file with the mayor of the city or the chairman of the county board of commissioners at least annually an audit report by a certified public accountant of its activities for the preceding year, and shall make any recommendations necessary to carry out the purposes of this Part.

"§ 131E-30. *Appropriations.*—Each year the governing body of a city or county in which the hospital authority is located may appropriate and transfer funds to the authority. The appropriations shall be from the General Fund and may not exceed five percent (5%) of the General Fund. Money appropriated and paid to the hospital authority by a city or county shall be deemed a necessary expense of the city or county. However, the appropriations shall not be deemed to be a revenue of the authority for the purpose of bonds of the hospital authority issued under the Local Government Revenue Bond Act, Chapter 159 of the General Statutes, Article 5.

"§ 131E-31. *Transfers of property by a city or county to a hospital authority.*—(a) A city or county may lease, sell, convey, or otherwise transfer, with or without consideration or with nominal consideration, any property,

whether real or personal or mixed, to a hospital authority whose territorial boundaries include at least part of the city or county. A hospital authority is authorized to accept such lease, transfer, assignment or conveyance and to bind itself to the performance and observation of any agreements and conditions required by the city or county.

(b) If a city or county sells, conveys, or otherwise irrevocably transfers to a hospital authority property with a market value in excess of two hundred fifty thousand dollars ($250,000), and if the hospital authority accepts this property, the mayor of the city or the chairman of the county board of commissioners shall have the right to name additional commissioners to serve on the authority. The number of additional commissioners shall be such that the proportion of additional commissioners to existing commissioners is approximately equal to the proportion of the total value being transferred to the hospital authority to the total value of property already held by the authority. The determination of the ratios will be made solely by the governing body of the city or county transferring the property to the hospital authority; however, in no event shall fewer than two nor more than nine commissioners be added to the hospital authority. The total number of commissioners shall be increased by the number of commissioners added under this subsection. The times of commencement and expiration of the initial terms of the commissioners being added shall be determined by agreement between the hospital authority and the governing body of the city or county. After the expiration of the initial terms, subsequent terms will be three years. Copies of the agreement setting out the number of persons being added and the terms of each shall be filed with the clerk of the city or the clerk of the county board of commissioners making the transfer and, thereafter, copies of the reports referred to in G.S. 131E-29 shall be filed with the clerk of the city or the clerk of the county board of commissioners.

"§ 131E-32. *Purchase money security interests.*—(a) An authority shall have the power and authority to purchase real or personal property under installment contracts, purchase money mortgages or deeds of trust, or other instruments, which create in the property purchased a security interest to secure payment of the purchase price and interest thereon. No deficiency judgment may be rendered against any authority for breach of an obligation authorized by this section. Any contract made or entered into by an authority before the date of ratification of Part B of Article 2 of this Chapter which would have been valid hereunder is valid, ratified and confirmed.

(b) A hospital authority may contract pursuant to this section in an amount of less than seven hundred fifty thousand dollars ($750,000), adjusted, as hereinafter provided, in any single transaction without the approval of the Local Government Commission: provided, however, that the approval of the Local Government Commission shall be required for any single contract pursuant to this section if the aggregate dollar amount of all such contracts outstanding after any such single transaction, exclusive of revenue bonds issued pursuant to G.S. 131E-26 and federal contracts entered pursuant to G.S. 131E-27, would exceed ten percent (10%) of the total operating revenues, as hereinafter defined, of the hospital authority for its most recently completed fiscal year as set forth in the audited financial statements of such authority for such fiscal year. The approval of the Local Government Commission shall be required with respect to any single contract pursuant to this section in an

amount of seven hundred fifty thousand dollars ($750,000) or more, adjusted as hereinafter provided.

(c) Approval of the Local Government Commission under this section or as required by G.S. 131E-26(b) shall be obtained in accordance with such rules and regulations as the Local Government Commission may prescribe and shall be evidenced by the secretary's certificate on the contract or note or other evidence of indebtedness. In determining whether to approve any such contract or borrowing, the Local Government Commission shall consider whether the hospital authority can demonstrate the financial responsibility and capability of the hospital authority to fulfill its obligations with respect to such contract or borrowing. The Local Government Commission may approve the application without other findings, if it finds that (i) the proposed project or the purpose of the borrowing is necessary and expedient, (ii) the contract or the borrowing, under the circumstances, is preferable to a bond issue for the same purpose, (iii) the sums to fall due under the contract or borrowing are adequate and not excessive for the proposed purpose, (iv) the authority's debt management procedures are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law and (v) the authority is not in default on any of its debt service obligations. Any contract or borrowing subject to this subsection requiring the approval of the Local Government Commission that does not bear the secretary's certificate thereon shall be void, and it shall be unlawful for any officer, employee or agent of a hospital authority to make any payments of money thereunder. An order of the Local Government Commission approving any such contract or borrowing shall not be regarded as an approval of the legality of the contract or borrowing in any respect.

(d) The seven hundred fifty thousand dollar ($750,000) amount referred to in G.S. 131E-32(b) shall be in effect from the date of ratification of Part B of Article 2 of this Chapter through September 30, 1984. For each twelve-month period thereafter, the seven hundred fifty thousand dollar ($750,000) amount shall be the figure in effect for the preceding twelve-month period, adjusted to reflect the change in the preceding twelve-month period in the Department of Commerce Composite Construction Cost Index.

(e) For purposes of G.S. 131E-32(b), the 'total operating revenues' of a hospital authority for a fiscal year means patient revenue, less provisions for contractual adjustments, uncompensated care and bad debts, plus other operating revenues, all as determined in accordance with generally accepted accounting principles.

"§ 131E-33. *Part controlling.*—Insofar as the provisions of this Part are inconsistent with the provisions of any other law, the provisions of this Part shall be controlling; however this Part shall not be construed as preventing a city, town, or county from establishing and operating a hospital under the authority of any other law now or hereafter in effect.

"§ 131E-34. *Part applicable to City of High Point.*—All the provisions of this Part shall apply to the City of High Point, Guilford County, North Carolina, as fully as if the population of the city exceeded 75,000 inhabitants.

"§ 131E-35 through 131E-39: Reserved for future codification purposes.

"Part C. Hospital District Act.

"§ 131E-40. *Title and purpose.*—(a) This Part shall be known as the 'Hospital District Act'.

(b) It is the purpose of this Part to authorize the creation of hospital districts to furnish hospital, clinical and similar services to the people of this State.

(c) This Part provides an additional and alternative method for the provision of hospital, clinical and similar services.

(d) This Part shall be construed liberally to effect its purposes.

"§ 131E-41. *Methods of creation of a hospital district.*—(a) The voters of an area may petition their county board of commissioners and the North Carolina Medical Care Commission for the creation of a hospital district. All of the area proposed to be included within a hospital district must be located within one county. The petition shall be signed by at least 500 voters of the area described in the petition. However, if the area has less than 1,100 voters, then the minimum number of petitioners shall be 250 voters. The petition shall set forth:

(1) A description of the area to be included within the proposed hospital district;

(2) The names of all municipalities located in whole or in part in the proposed hospital district;

(3) The names of all publicly owned hospitals in the proposed hospital district;

(4) The purpose or purposes sought to be accomplished by the creation of the hospital district; and

(5) The proposed name of the hospital district.

The petition shall be delivered to the county board of commissioners of the county in which the proposed hospital district would be located. If the county board of commissioners approves the creation of the hospital district, they shall have the petition delivered to the North Carolina Medical Care Commission for review under G.S. 131E-42.

(b) In the alternative, the county board of commissioners, in its discretion, may create a hospital district by resolution. This authority exists only when one hospital district already exists in the county, or when a special tax levy for hospital purposes has been authorized or is now authorized with respect to a portion of the county. This power is limited to establishing a hospital district in the area lying outside the existing hospital district or outside the portion of the county in which a hospital tax levy has been or is now authorized. When a county board of commissioners exercises its power under this subsection, all other provisions of this Part shall be applicable, except as modified by this subsection.

"§ 131E-42. *Hearing and determination.*—(a) After receipt of a petition for the creation of a hospital district that meets the requirements of G.S. 131E-41(a) and that has been approved by the county board of commissioners, the North Carolina Medical Care Commission shall give notice of a hearing on the creation of a hospital district. The notice of hearing shall be posted at the county courthouse door and at three public places within the proposed district. In addition, notice of hearing shall be published at least once for three successive weeks in a newspaper circulating in the proposed district. The notice of hearing shall specify:

(1) The date of hearing which shall not be earlier than 20 days after the first posting and publication of notice;

(2) The location of the hearing, which shall be within the county in which the proposed district would be located; and

(3) That any interested person may appear and be heard at the hearing.

(b) At the time and place specified in the notice of hearing, the North Carolina Medical Care Commission, or its designee, shall hear all interested persons, and, if necessary, adjourn and reconvene at a later time.

(c) After the hearing, the North Carolina Medical Care Commission shall determine if it is in the public interest and beneficial to the residents of the area to create a hospital district, and, if it is, shall adopt a resolution creating the hospital district. The resolution shall define the area to be included in the hospital district. The area shall either be the one described in the petition or a part of that area. However, no municipality, in whole or in part, shall be included in a hospital district unless the governing body of the municipality shall have approved by resolution the inclusion and shall have filed a certified copy of the resolution with the North Carolina Medical Care Commission.

(d) Each hospital district shall be designated by the North Carolina Medical Care Commission as the '____ Hospital District of ____County,' inserting in the blank spaces a name identifying the locality and the name of the county.

(e) The North Carolina Medical Care Commission shall give notice of the creation of a hospital district. The notice shall be published at least once for two successive weeks in the newspaper in which the notice of hearing required by G.S. 131E-42(a) was published. A notice substantially in the following form, the blanks first being properly filled in, with the printed or written signature of the executive secretary of the North Carolina Medical Care Commission appended, shall be published with the resolution:

> The foregoing resolution was passed by the North Carolina Medical Care Commission on the ____ day of _____, 19__; it was first published on the ____ day of _____, 19__.
>
> Any action or proceeding questioning the validity of the resolution or creation of the _____ Hospital District of _____ County or the inclusion in the district of any of the areas described in the resolution must be commenced within thirty days after the first publication of this resolution.
>
> _____
>
> Secretary
>
> North Carolina Medical Care Commission.

"§ 131E-43. *Limitation of actions.*—Any action or proceeding in any court to set aside a resolution of the North Carolina Medical Care Commission creating any hospital district, or questioning the validity of the resolution, or the creation of any hospital district, or the inclusion in the district of any of the territory described in the resolution creating the district, must be commenced within 30 days after the first publication of the resolution and notice required by G.S. 131E-42(e). Thereafter, no right of action or defense founded upon the invalidity of a resolution or the creation of a district or the inclusion of any territory in the district shall be asserted, nor shall the validity of the resolution or the creation of the district or the inclusion of any territory be open to question in any court upon any ground, except in any action or proceeding commenced within the 30-day period.

"§ 131E-44. *General powers.*—(a) The inhabitants of a hospital district are a body corporate and politic by the name specified by the North Carolina Medical Care Commission. Under that name they:

(1) are vested with all the property and rights of property belonging to any corporation;

(2) have perpetual succession;

(3) may sue or be sued;

(4) may contract;

(5) may acquire any real or personal property;

(6) may hold, invest, sell or dispose of property;

(7) may have a seal and alter and renew it; and

(8) may exercise the powers conferred upon them by this Part.

(b) A hospital district is vested with all the powers necessary or convenient to carry out the purposes of this Part, including the following powers, which are in addition to the powers granted elsewhere:

(1) Those powers granted under the Municipal Hospital Act, Chapter 131E of the General Statutes, Article 2, Part A;

(2) To issue general obligation and revenue bonds and bond anticipation notes pursuant to the Local Government Finance Act, Chapter 159 of the General Statutes;

(3) To issue tax and revenue anticipation notes pursuant to Chapter 159 of the General Statutes, Article 9, Part 2; and

(4) All other powers as are necessary and incidental to the exercise of the powers of this Part.

"§ 131E-45. *County taxes.*—The county board of commissioners may levy a tax for the financing of the operation, equipment, and maintenance of any hospital operated by the district, including any public or nonprofit hospital, if the tax is approved by a majority of the qualified voters of the hospital district who shall vote on the question of levying the tax. The county board of commissioners shall determine the rate or amount of taxes that will be levied if approved by the voters of the district. The election on the question of levying the tax may be held at any time fixed by the county board of commissioners and shall be conducted in the same manner as bond elections held under G.S. 159-61.

"§ 131E-46. *Referendum on repeal of tax levy.*—(a) The board of commissioners of the county in which a hospital district was created under the provisions of this Part may, if a tax levy was authorized by referendum under G.S. 131E-45, call a referendum on the repeal of the authority to levy a tax. Such referendum may be called only if there are no outstanding general obligation bonds of the district.

(b) The question on the ballot shall be:

'☐ FOR removal of the right of the board of county commissioners to levy and collect a tax in ____Hospital District of ____County,

☐ AGAINST removal of the right of the board of county commissioners to levy and collect a tax in ____ Hospital District of ____ County.'

(c) The referendum shall be conducted in the same manner as bond elections held under G.S. 159-61. No new registration of voters shall be required.

(d) If a majority of the votes cast are in favor of the question, then beginning on the first day of the fiscal year following the date of the referendum, the board of county commissioners shall have no authority to levy a tax in the

hospital district unless the voters approve under G.S. 131E-45. No referendum may be held within one year of the date of a referendum under this section.

"§ 131E-47. *Governing body.*—The board of county commissioners of the county in which a hospital district is located shall be the governing body of the district. All of the provisions of the Municipal Hospital Act, Chapter 131E, Article 2, Part A, shall apply to the hospital district and to the county board of commissioners as the governing body.

"§ 131E-48 through 131E-54. Reserved for future codification purposes.

"Article 3.

"North Carolina Specialty Hospitals.

"Part A. Lenox Baker Children's Hospital.

"§ 131E-55. *Intent; application for admission.*—(a) The Lenox Baker Children's Hospital may treat, care for, train and educate children from birth to age 21 in the State who have cerebral palsy, and other chronic or subacute orthopedic, neuromuscular and pediatric disabilities who are capable of being habilitated or rehabilitated. The Lenox Baker Children's Hospital shall disseminate knowledge concerning the extent, nature, and prevention of such disabling ailments.

(b) Application for the admission of a child must be made by a parent, guardian, or person standing in *loco parentis.*

"§ 131E-56. *Authority of Board of Directors of hospital.*—(a) The Board of Directors is authorized to adopt rules necessary for the operation of the hospital in a manner consistent with the intent and purpose of this Article.

(b) The Board of Directors is authorized to accept and use donations to further the intent of this Article.

"§ 131E-57. *Control and management of hospital.*—The Department shall have the general superintendence, management, and control of the hospital, its grounds and buildings, its officers and employees, and its patients and all matters relating to its government, discipline, contracts, and fiscal concerns.

"§ 131E-58. *Authority of the Department.*—The Department, with the approval of the Governor and the Council of State, is authorized to secure by gift or purchase suitable real estate within the State and to erect or improve buildings for carrying out the purposes of the hospital. No real estate shall be purchased nor any commitments made for the erection or permanent improvements of any buildings involving the use of State funds until an appropriation for permanent improvements of the hospital is expressly authorized by the General Assembly.

"§ 131E-59 to 131E-64: Reserved for future codification purposes.

"Part B. Other Programs Controlled by the Department.

"§ 131E-65. *Alcohol Detoxification Program.*—There shall be no reduction of services offered, no contracting of primary services, nor removal of this facility from Buncombe County without prior approval of the General Assembly.

"§ 131E-66. *Funds of deceased inmates.*—The Department of Human Resources shall apply the funds of deceased patients or inmates of State hospitals or other charitable institutions to satisfy the debts of the patient or inmate to the hospital or charitable institution if:

(1) the patient or inmate dies while a patient or inmate of or dies after having left a State hospital or other charitable institution;

(2) the deceased patient or inmate had deposited or placed funds with the officials of the State hospital or other charitable institution; and

(3) the funds have remained unclaimed for three years following the death of the patient or inmate.

The Department of Human Resources shall apply the funds, or such portion of funds as necessary, to satisfy the patient's or inmate's indebtedness to the State hospital or charitable institution for services and care rendered. Any excess of funds over indebtedness shall be held by the officials and paid out as required by law.

"§ 131E-67. *Specialty hospitals.*—All functions, powers, duties, and obligations heretofore vested in the Board of Directors of the North Carolina Specialty Hospitals and Eastern North Carolina Hospital are hereby transferred to and vested in the Department. All appropriations heretofore made to such Board of Directors or to any of the hospitals are hereby transferred to the Department. The Secretary of the Department shall have the power and duty to adopt rules for the operation of these facilities.

"§ 131E-68 through 131E-69: Reserved for future codification purposes.

"Article 4.

"Construction and Enlargement of Hospitals.

"§ 131E-70. *Construction and enlargement of local hospitals.*—(a) The Department is authorized to continue surveys of all counties in the State to determine:

(1) The hospital needs of the county;

(2) The economic ability of various areas to support adequate hospital service;

(3) What assistance by the State, if any, is necessary to supplement other available funds; to finance the construction of new hospitals and health centers, additions to existing hospitals and health centers; and to finance equipment necessary to provide adequate hospital service for the citizens of the county;

and to periodically report this information, together with its recommendations, to the Governor, who shall transmit the reports to the General Assembly for any legislative action necessary to ensure an adequate statewide hospital program.

(b) The Department is authorized to act as the agency of the State to develop and administer a statewide plan in accordance with rules adopted by the Medical Care Commission for the construction and maintenance of hospitals, public health centers and related facilities and to receive and administer funds which may be provided by the General Assembly and by the federal government.

(c) The Department is authorized to develop statewide plans for the construction and maintenance of hospitals, medical centers and related facilities, or other plans necessary in order to meet the requirements and receive the benefits of applicable federal legislation.

(d) The Department is authorized to adopt rules to carry out the intent and purposes of this Article.

(e) The Department shall be responsible for doing all acts necessary to authorize the State to receive the full benefits of any federal statutes enacted for the construction and maintenance of hospitals, health centers or allied facilities.

(f) The Medical Care Commission shall make grants-in-aid to counties, cities, towns and subdivisions of government to acquire real estate and construct

hospital facilities, including the reconstruction, remodeling or addition to any hospital facilities acquired by municipalities or subdivisions of government for use as community hospitals. These appropriations and funds made available by the State shall be allocated, apportioned and granted for the purposes of this Article and for other purposes in accordance with the rules adopted by the Medical Care Commission. The Medical Care Commission may furnish financial and other types of aid and assistance to any nonprofit hospital owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, upon the same terms and conditions as this aid and financial assistance is granted to municipalities and subdivisions of government.

(g) The Department may make available to any eligible hospital, clinic, or other medical facility operated by the State any unallocated federal sums or balances remaining after all grants-in-aid for local approvable projects made by the Department have been completed, disbursed or encumbered.

"§ 131E-71 through 131E-74: Reserved for future codification purposes.

"Article 5.

"Hospital Licensure Act.

"§ 131E-75. *Title; purpose.*—(a) This Article shall be known as the 'Hospital Licensure Act.'

(b) The purpose of this Article is to establish hospital licensing requirements which promote public health, safety and welfare and to provide for the development, establishment and enforcement of basic standards for the care and treatment of patients in hospitals.

"§ 131E-76. *Definitions.*—As used in this Article, unless otherwise specified:

(1) 'Commission' means the North Carolina Medical Care Commission.

(2) 'Governing body' means the Board of Trustees, Board of Directors, partnership, corporation, association, person or group of persons who maintain and control the hospital. The governing body may or may not be the owner of the properties in which the hospital services are provided.

(3) 'Hospital' means any facility which has an organized medical staff and which is designed, used, and operated to provide health care, diagnostic and therapeutic services, and continuous nursing care primarily to inpatients where such care and services are rendered under the supervision and direction of physicians licensed under Chapter 90 of the General Statutes, Article 1, to two or more persons over a period in excess of 24 hours. The term includes facilities for the diagnosis and treatment of disorders within the scope of specific health specialties. The term does not include private mental facilities licensed under G.S. 122-72, nursing homes licensed under G.S. 131E-102, and domiciliary homes licensed under G.S. 131D-2.

(4) 'Infirmary' means a unit of a school, or similar educational institution, which has the primary purpose to provide limited short-term health and nursing services to its students.

(5) 'Medical review committee' means a committee of a State or local professional society, of a medical staff of a licensed hospital or a committee of a peer review corporation or organization which is formed for the purpose of evaluating the quality, cost of, or necessity for hospitalization or health care, including medical staff credentialing.

"Part A. Hospital Licensure.

"§ 131E-77. *Licensure requirement.*—(a) No person or governmental unit shall establish or operate a hospital in this State without a license. An infirmary is not required to obtain a license under this Part.

(b) The Commission shall prescribe by rule that any licensee or prospective applicant seeking to make specified types of alteration or addition to its facilities or to construct new facilities shall submit plans and specifications before commencement to the Department for preliminary inspection and approval or recommendations with respect to compliance with the applicable rules under this Part.

(c) An applicant for licensing under this Part shall provide information related to hospital operations as requested by the Department. The required information shall be submitted by the applicant on forms provided by the Department and established by rule.

(d) Upon receipt of an application for a license, the Department shall issue a license if it finds that the applicant complies with the provisions of this Article and the rules of the Commission. The Department shall renew each license in accordance with the rules of the Commission.

(e) The Department shall issue the license to the operator of the hospital who shall not transfer or assign it except with the written approval of the Department.

(f) The operator shall post the license on the licensed premises in an area accessible to the public.

"§ 131E-78. *Adverse action on a license.*—(a) The Department shall have the authority to deny, suspend, revoke, annul, withdraw, recall, cancel, or amend a license in any case when it finds a substantial failure to comply with the provisions of this Part or any rule promulgated under this Part.

(b) The Department shall conduct a hearing in accordance with Chapter 150A of the General Statutes, the Administrative Procedure Act, when:

(1) The Department denies an application and the applicant requests a hearing; or

(2) The Department initiates proceedings under subsection (a).

(c) Any applicant or operator who is dissatisfied with the decision of the Department as a result of the hearing provided in this section and after a written copy of the decision is served, may request a judicial review under Chapter 150A of the General Statutes, the Administrative Procedure Act.

"§ 131E-79. *Rules and enforcement.*—(a) The Commission shall promulgate rules necessary to implement this Article.

(b) The Department shall enforce this Article and the rules of the Commission.

"§ 131E-80. *Inspections.*—(a) The Department shall make or cause to be made inspections as it may deem necessary. Any hospital licensed under this Part shall at all times be subject to inspections by the Department according to the rules of the Commission.

(b) The Department may delegate to any state officer or agency the authority to inspect hospitals. The Department may revoke this delegated authority at its discretion and make its own inspections.

(c) Authorized representatives of the Department shall have at all times the right of proper entry upon any and all parts of the premises of any place in which entry is necessary to carry out the provisions of this Part or the rules

adopted by the Commission; and it shall be unlawful for any person to resist a proper entry by such authorized representative upon any premises other than a private dwelling. However, no representative shall, by this entry onto the premises, endanger the health or well being of any patient being treated in the hospital.

(d) To enable the Department to determine compliance with this Part and the rules promulgated under the authority of this Part and to investigate complaints made against a hospital licensed under this Part, while maintaining the confidentiality of the complainant, the Department shall have the authority to review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been patients of the hospital licensed under this Part and the personnel records of those individuals employed by the licensed hospital. The examinations of these records is permitted notwithstanding the provisions of G.S. 8-53, 'Communications between physician and patient', or any other provision of law relating to the confidentiality of communications between physician and patient. Proceedings of medical review committees are exempt from the provisions of this section. The hospital, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the patient, employee or legal representative, or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning a hospital without the consent of that person. Any officer, administrator, or employee of the Department who willfully discloses confidential or privileged information without appropriate authorization or court order shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not in excess of five hundred dollars ($500.00). Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132-1, 'Public Records' defined.

(e) Information received by the Commission and the Department through filed reports, license applications, or inspections that are required or authorized by the provisions of this Part, may be disclosed publicly except where this disclosure would violate the confidential relationship existing between physician and patient. However, no such public disclosure shall identify the patient involved without permission of the patient or court order.

"§ 131E-81. *Penalties.*—(a) Any person establishing, conducting, managing, or operating any hospital without a license shall be guilty of a misdemeanor, and upon conviction shall be liable for a fine of not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.

(b) Except as otherwise provided in this Part, any person who willfully violates any provision of this Part or who willfully fails to perform any act

required, or who willfully performs any act prohibited by this Part, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or by imprisonment for a period not to exceed two years or by both such fine and imprisonment in the discretion of the court. However, any person who willfully violates any rule adopted by the Commission under this Part or who willfully fails to perform any act required by, or who willfully does any act prohibited by, these rules shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed fifty dollars ($50.00) or by imprisonment for a period not to exceed 30 days.

"§ 131E-82. *Injunction.*—(a) Notwithstanding the existence or pursuit of any other remedy, the Department may, in the manner provided by law, maintain an action in the name of the State for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a hospital without a license.

(b) If any person shall hinder the proper performance of duty of the Secretary or a representative in carrying out the provisions of this Part, the Secretary may institute an action in the superior court of the county in which the hindrance occurred for injunctive relief against the continued hindrance, irrespective of all other remedies at law.

(c) Actions under this section shall be in accordance with Article 37 of Chapter 1 of the General Statutes, and Rule 65 of the Rules of Civil Procedure.

"§ 131E-83 through 131E-84: Reserved for future codification purposes.

"Part B. Hospital Privileges.

"§ 131E-85. *Hospital privileges and procedures.*—(a) The granting or denial of privileges to practice in hospitals to physicians licensed under Chapter 90 of the General Statutes, Article 1, dentists and podiatrists and the scope and delineation of such privileges shall be determined by the governing body of the hospital. Such determinations shall be based upon the applicant's education, training, experience, demonstrated competence and ability, and judgment and character of the applicant, and the reasonable objectives and regulations of the hospital, including, but not limited to appropriate utilization of hospital facilities, in which privileges are sought. Nothing in this Part shall be deemed to mandate hospitals to grant or deny to any such individuals or others privileges to practice in hospitals.

(b) The procedures to be followed by a licensed hospital in considering applications of dentists and podiatrists for privileges to practice in such hospitals shall be similar to those applicable to applications of physicians licensed under Chapter 90 of the General Statutes, Article 1. Such procedures shall be available upon request.

(c) In addition to the granting or denial of privileges, the governing body of each hospital may suspend, revoke, or modify privileges.

(d) All applicants or individuals who have privileges shall comply with all applicable medical staff bylaws, rules and regulations, including the policies and procedures governing the qualifications of applicants and the scope and delineation of privileges.

"§ 131E-86. *Limited privileges.*—(a) It shall be unlawful for an individual who is not licensed under Chapter 90 of the General Statutes, Article 1, to admit a patient to a hospital without written proof in accordance with the policy of the governing body of the hospital that a physician licensed under Chapter 90 of the General Statutes, Article 1, who is a member of the medical staff will be

responsible for the performance of a basic medical appraisal and for the medical needs of the patient. The governing body of a hospital may waive this requirement for a dentist licensed under Chapter 90 of the General Statutes, Article 2, to the extent authorized by this statute, who has successfully completed a postgraduate program in oral and maxillofacial surgery accredited by the American Dental Association.

(b) The governing body of each hospital shall not grant privileges that exceed the scope of a license.

"§ 131E-87. *Reports of disciplinary action; immunity from liability.*—The chief administrative officer of every licensed hospital in the State shall report to the appropriate occupational licensing board any revocation, suspension, or limitation of privileges to practice in that hospital. Each hospital shall also report to the board its medical staff resignations. Any person making a report required by this section shall be immune from any resulting criminal prosecution or civil liability unless the person knew the report was false or acted in reckless disregard of whether the report was false.

"§ 131E-88 through 131E-89: Reserved for future codification purposes.

"Part C. Discharge from Hospital.

"§ 131E-90. *Authority of administrator; refusal to leave after discharge.*—The case of a patient who refuses or fails to leave the hospital upon discharge by the attending physician shall be reviewed by two physicians licensed to practice medicine in this State, one of whom may be the attending physician. If in the opinion of the physicians, the patient should be discharged as cured or as no longer needing treatment or for the reason that treatment cannot benefit the patient's case or for other good and sufficient reasons, the patient's refusal to leave shall constitute a trespass. The patient shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed fifty dollars ($50.00) or imprisoned not more than 30 days.

"§ 131E-91 through 131E-94: Reserved for future codification purposes.

"Part D. Medical Review Committee.

"§ 131E-95. *Medical review committee.*—(a) A member of a duly appointed medical review committee who acts without malice or fraud shall not be subject to liability for damages in any civil action on account of any act, statement or proceeding undertaken, made, or performed within the scope of the functions of the committee.

(b) The proceedings of a medical review committee, the records and materials it produces and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, 'Public Records' defined, and shall not be subject to discovery or introduction into evidence in any civil action against a hospital or a provider of professional health services which results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. A member of the committee or a person who testifies before the committee may

testify in a civil action but cannot be asked about his testimony before the committee or any opinions formed as a result of the committee hearings.

"§ 131E-96 through 131E-99: Reserved for future codification purposes.

"Article 6.

"Health Care Facility Licensure Act.

"Part A. Nursing Home Licensure Act.

"§ 131E-100. *Title; purpose.*—(a) This Part shall be known as the 'Nursing Home Licensure Act'.

(b) The purpose of the Nursing Home Licensure Act is to establish authority and duty for the Department to inspect and license private nursing homes.

"§ 131E-101. *Definitions.*—As used in this Part, unless otherwise specified:

(a) 'Combination home' means a nursing home offering one or more levels of care, including any combination of skilled nursing, intermediate care, and domiciliary home.

(b) 'Commission' means the North Carolina Medical Care Commission.

(c) 'Community advisory committee' means a nursing home advisory committee established for the statutory purpose of working to carry out the intent of the Nursing Home Patients' Bill of Rights (Chapter 131E, Article 6, Part B) in accordance with G.S. 143B-181.1.

(d) 'Domiciliary home', as distinguished from a nursing home, means a facility operated as a part of a nursing home and which provides residential care for aged or disabled persons whose principal need is a home with the sheltered or personal care their age or disability requires. Medical care in a domiciliary home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Continuing planned medical and nursing care to meet the resident's needs may be provided under the direct supervision of a physician, nurse, or home health agency. Domiciliary homes are to be distinguished from nursing homes subject to licensure under this Part. The three types of domiciliary homes are homes for the aged and disabled, family care homes and group homes for developmentally disabled adults.

(e) 'Medical review committee' means a committee of a State or local professional society, of a medical staff of a licensed hospital, of physicians having privileges within the nursing home or of a peer review corporation or organization which is formed for the purpose of evaluating the quality, cost of or necessity for health care services under applicable federal statutes.

(f) 'Nursing home' means a facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A 'nursing home' is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A 'nursing home' provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.

(g) 'Peer review committee' means any committee appointed in accordance with G.S. 131E-108, 'Peer review'.

"§ 131E-102. *Licensure requirements.*—(a) No person shall operate a nursing home without a license obtained from the Department. Any person may operate a nursing home or a combination home, as defined in this Part, in the same building or in two or more buildings adjoining or next to each other on the same site. Both a nursing home and a combination home must be licensed by the Department under this Part.

(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated under this Part.

(c) A license to operate a nursing home shall be annually renewed upon the filing and the Department's approval of the renewal application. The renewal application shall be available from the Department and shall contain all necessary and reasonable information that the Department may by rule require.

(d) Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written approval of the Department.

(e) In order for a nursing home to maintain its license it shall not intentionally impede the proper performance of the duties of a lawfully appointed community advisory committee as set forth in G.S. 131E-128(h).

"§ 131E-103. *Adverse action on a license.*—(a) Subject to subsection (b), the Department shall have the authority to deny a new or renewal application for a license, and to amend, recall, suspend or revoke an existing license upon a determination that there has been a substantial failure to comply with the provisions of this Part or the rules promulgated under this Part.

(b) The provisions of Chapter 150A of the General Statutes, the Administrative Procedure Act, shall govern all administrative action and judicial review in cases where the Department has taken the action described in subsection (a).

"§ 131E-104. *Rules and enforcement.*—(a) The Commission is authorized to adopt, amend, and repeal all rules necessary for the implementation of this Part.

(b) The Commission shall adopt rules for the operation of the domiciliary portion of a combination home that are equal to the rules adopted by the Social Services Commission for the operation of freestanding domiciliary homes. The domiciliary portion of a combination home in existence on January 1, 1982, shall be exempt from physical plant minimum standards, unless the Department determines the exemption to be an imminent hazard to health, safety and welfare of the residents.

(c) The Department shall enforce the rules adopted or amended by the Commission with respect to nursing homes.

"§ 131E-105. *Inspections.*—(a) The Department shall inspect any nursing home and any domiciliary home operated as a part of a nursing home in accordance with rules adopted by the Commission.

(b) Notwithstanding the provisions of G.S. 8-53, 'Communications between physician and patient', or any other provision of law relating to the confidentiality of communications between physician and patient, the representatives of the Department, when necessary for investigating

compliance with this Part or rules promulgated by the Commission, may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been patients of the facility being inspected unless that patient objects in writing to review of that patient's records. Physicians, psychologists, psychiatrists, nurses, and anyone else interviewed by representatives of the Department may disclose to these representatives information related to any inquiry, notwithstanding the existence of the physician-patient privilege in G.S. 8-53, 'Communications between physician and patient', or any other rules of law, if the patient has not made written objection to this disclosure. The facility, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information which is provided without malice or fraud to the Department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the patient or legal representative or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning a facility without consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132-1, 'Public Records' defined. Prior to releasing any information or allowing any inspections referred to in this subsection, the patient must upon admission be advised in writing by the facility that the patient has the right to object in writing to the release of information or review of the records and that by an objection in writing the patient may prohibit the inspection or release of the records.

(c) Authorized representatives of the Department with identification to this effect shall have at all times the right of proper entry upon any and all parts of the premises of any place in which entry is necessary to carry out the provisions of this Part or the rules adopted by the Commission. It shall be unlawful for any person to resist a proper entry by an authorized representative upon any premises other than a private dwelling.

"§ 131E-106. *Evaluation of residents in domiciliary homes.*—The Department shall prescribe the method of evaluation of residents in the domiciliary portion of a combination home in order to determine when any of these residents is in need of professional medical and nursing care as provided in licensed nursing homes.

"§ 131E-107. *Medical or peer review committees.*—A member of a duly appointed medical or peer review committee shall not be subject to liability for damages in any civil action on account of any act, statement or proceeding undertaken, made, or performed within the scope of the functions of the committee, if the committee member acts without malice or fraud, and if such peer review committee is approved and operates in accordance with G.S. 131E-108.

"§ 131E-108. *Peer review.*—It is not a violation of G.S. 131E-117(5) for medical records to be disclosed to a private peer review committee if:

(1) The peer review committee has been approved by the Department;

(2) The purposes of the peer review committee are to:

(a) Survey facilities to verify a high level of quality care through evaluation and peer assistance;

(b) Resolve written complaints in a responsible and professional manner; and

(c) Develop a basic core of knowledge and standards useful in establishing a means of measuring quality of care; and

(3) The peer review committee keeps such records confidential.

"§ 131E-109. *Penalties.*—(a) Any person establishing, conducting, managing or operating any nursing home without a license shall be guilty of a misdemeanor, and upon conviction shall be liable for a fine of not more than five hundred dollars ($500.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.

(b) Any person acting under the authority of the Department who gives advance notice to an operator of a nursing home of the date or time that the nursing home is to be inspected shall be guilty of a misdemeanor, and upon conviction shall be liable for a fine of not more than five hundred dollars ($500.00) or imprisonment for a period not to exceed 30 days, or both. The inspection of a nursing home for initial licensure shall be exempt from the prohibition of prior notice. All subsequent inspections must comply with the provisions of this subsection.

(c) The Secretary or a designee may suspend the admission of any new patients or residents at any nursing home or domiciliary home where the conditions of the nursing home or domiciliary home are detrimental to the health or safety of the patient or resident. This suspension shall remain in effect until the Secretary is satisfied that conditions or circumstances merit the removal of the suspension. This subsection shall be in addition to authority to suspend or revoke the license of the home.

(d) Except as otherwise provided in this Part, any person who violates any provision of this Part or who willfully fails to perform any act required, or who willfully performs any act prohibited by this Part, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine or by imprisonment for a period not to exceed two years or by both such fine and imprisonment in the discretion of the court; provided, however, that any person who willfully violates any rule adopted by the Commission under this Part or who willfully fails to perform any act required by, or who willfully performs any act prohibited by, these rules shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed fifty dollars ($50.00) or by imprisonment for a period not to exceed 30 days.

"§ 131E-110. *Injunction.*—(a) Notwithstanding the existence or pursuit of any other remedy, the Department may, in the manner provided by law, maintain an action in the name of the State for injunction or other process against any person to restrain or prevent the establishment, conduct, management or operation of a nursing home without a license.

(b) If any person shall hinder the proper performance of duty of the Secretary or a representative in carrying out the provisions of this Part, the Secretary may institute an action in the superior court of the county in which the

hindrance occurred for injunctive relief against the continued hindrance, irrespective of all other remedies at law.

(c) Actions under this section shall be in accordance with Article 37 of Chapter 1 of the General Statutes and Rule 65 of the Rules of Civil Procedure.

"§ 131E-111 through 131E-114: Reserved for future codification purposes.

"Part B. Nursing Home Patients' Bill of Rights.

"§ 131E-115. *Legislative intent.*—It is the intent of the General Assembly to promote the interests and well-being of the patients in nursing homes and homes for the aged and disabled licensed pursuant to G.S. 131E-102. It is the intent of the General Assembly that every patient's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and that the facility shall encourage and assist the patient in the fullest possible exercise of these rights.

"§ 131E-116. *Definitions.*—As used in this Part, unless otherwise specified:

(a) 'Administrator' means an administrator of a facility.

(b) 'Facility' means a nursing home and a home for the aged or disabled licensed pursuant to G.S. 131E-102.

(c) 'Patient' means a person who has been admitted to a facility.

(d) 'Representative payee' means a person certified by the federal government to receive and disburse benefits for a recipient of governmental assistance.

"§ 131E-117. *Declaration of patients' rights.*—All facilities shall treat their patients in accordance with the provisions of this Part. Every patient shall have the following rights:

(1) To be treated with consideration, respect, and full recognition of personal dignity and individuality;

(2) To receive care, treatment and services which are adequate, appropriate, and in compliance with relevant federal and State statutes and rules;

(3) To receive at the time of admission and during the stay, a written statement of the services provided by the facility, including those required to be offered on an as-needed basis, and of related charges. Charges for services not covered under Medicare or Medicaid shall be specified. Upon receiving this statement, the patient shall sign a written receipt which must be on file in the facility and available for inspection;

(4) To have on file in the patient's record a written or verbal order of the attending physician containing any information as the attending physician deems appropriate or necessary, together with the proposed schedule of medical treatment. The patient shall give prior informed consent to participation in experimental research. Written evidence of compliance with this subdivision, including signed acknowledgements by the patient, shall be retained by the facility in the patient's file;

(5) To receive respect and privacy in the patient's medical care program. Case discussion, consultation, examination, and treatment shall remain confidential and shall be conducted discreetly. Personal and medical records shall be confidential and the written consent of the patient shall be obtained for their release to any individual, other than family members, except as needed in case of the patient's transfer to another health care institution or as required by law or third party payment contract;

(6) To be free from mental and physical abuse and, except in emergencies, to be free from chemical and physical restraints unless authorized for a specified period of time by a physician according to clear and indicated medical need;

(7) To receive from the administrator or staff of the facility a reasonable response to all requests;

(8) To associate and communicate privately and without restriction with persons and groups of the patient's choice on the patient's initiative or that of the persons or groups at any reasonable hour; to send and receive mail promptly and unopened, unless the patient is unable to open and read personal mail; to have access at any reasonable hour to a telephone where the patient may speak privately; and to have access to writing instruments, stationery, and postage;

(9) To manage the patient's financial affairs unless authority has been delegated to another pursuant to a power of attorney, or written agreement, or some other person or agency has been appointed for this purpose pursuant to law. Nothing shall prevent the patient and facility from entering a written agreement for the facility to manage the patient's financial affairs. In the event that the facility manages the patient's financial affairs, it shall have an accounting available for inspection and shall furnish the patient with a quarterly statement of the patient's account. The patient shall have reasonable access to this account at reasonable hours; the patient or facility may terminate the agreement for the facility to manage the patient's financial affairs at any time upon five days' notice.

(10) To enjoy privacy in visits by the patient's spouse, and, if both are inpatients of the facility, they shall be afforded the opportunity where feasible to share a room;

(11) To enjoy privacy in the patient's room;

(12) To present grievances and recommend changes in policies and services, personally or through other persons or in combination with others, on the patient's personal behalf or that of others to the facility's staff, the community advisory committee, the administrator, the Department, or other persons or groups without fear of reprisal, restraint, interference, coercion, or discrimination;

(13) To not be required to perform services for the facility without personal consent and the written approval of the attending physician;

(14) To retain, to secure storage for, and to use personal clothing and possessions, where reasonable;

(15) To not be transferred or discharged from a facility except for medical reasons, the patient's own or other patients' welfare, nonpayment for the stay, or when the transfer or discharge is mandated under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act. The patient shall be given at least five days' advance notice to ensure orderly transfer or discharge, unless the attending physician orders immediate transfer, and these actions, and the reasons for them, shall be documented in the patient's medical record.

"§ 131E-118. *Transfer of management responsibilities.*—The patient's representative who has been given the power in writing by the patient to manage the patient's financial affairs or the patient's legal guardian as appointed by a court or the patient's attorney-in-fact as specified in the power of attorney agreement may sign any documents required by the provisions of this Part, may perform any other act, and may receive or furnish any information required by this Part.

"§ 131E-119. *No waiver of rights.*—No facility may require a patient to waive the rights specified in this Part.

"§ 131E-120. *Notice to patient.*—(a) A copy of G.S. 131E-115 through G.S. 131E-127 shall be posted conspicuously in a public place in all facilities. Copies of G.S. 131E-115 through G.S. 131E-127 shall be furnished to the patient upon admittance to the facility, to all patients currently residing in the facility, to the sponsoring agency, to a representative payee of the patient, or to any person designated in G.S. 131E-118, and to the patient's next of kin, if requested. Receipts for the statement signed by these persons shall be retained in the facility's files.

(b) The address and telephone number of the section in the Department responsible for the enforcement of the provisions of this Part shall be posted and distributed with copies of the Part. The address and telephone number of the county social services department shall also be posted and distributed.

"§ 131E-121. *Responsibility of administrator.*—Responsibility for implementing the provisions of this Part shall rest on the administrator of the facility.

"§ 131E-122. *Staff training.*—Each facility shall provide appropriate staff training to implement each patient's rights included in this Part.

"§ 131E-123. *Civil action.*—Every patient shall have the right to institute a civil action for injunctive relief to enforce the provisions of this Part. The Department, a general guardian, or any person appointed as guardian ad litem pursuant to law, may institute an action pursuant to this section on behalf of the patient or patients. Any agency or person named above may enforce the rights of the patient specified in this Part which the patient is unable to personally enforce.

"§ 131E-124. *Enforcement and investigation; confidentiality.*—(a) The Department shall be responsible for the enforcement of the provisions of this Part. The Department shall investigate complaints made to it and reply within a reasonable time, not to exceed 60 days, upon receipt of a complaint.

(b) The Department is authorized to inspect patients' medical records maintained at the facility when necessary to investigate any alleged violation of this Part.

(c) The Department shall maintain the confidentiality of all persons who register complaints with the Department and of all medical records inspected by the Department.

"§ 131E-125. *Revocation of a license.*—The Department shall have the authority to revoke a license issued pursuant to G.S. 131E-102 in any case where it finds that there has been a substantial failure to comply with the provisions of this Part or any failure that endangers the health, safety or welfare of patients.

Such revocation shall be effected by mailing to the licensee by registered mail, or by personal service of, a notice setting forth the particular reasons for such action. Such revocation shall become effective 20 days after the mailing or service of the notice, unless the applicant or licensee, within such 20-day period, shall give written notice to the Department requesting a hearing, in which case the notice shall be deemed to be suspended. If a hearing has been requested, the licensee shall be given a prompt and fair hearing pursuant to the Administrative Procedure Act. At any time at or prior to the hearing, the

Department may rescind the notice of revocation upon being satisfied that the reasons for the revocation have been or will be removed.

"§ 131E-126. *Penalties.*—(a) The Department shall impose an administrative penalty in accordance with provisions of this Part on any facility:

(1) Which fails to comply with either the entire section of patients' rights listed in G.S. 131E-117 or with any one of these rights which endangers the health, safety or welfare of a patient.

(2) Which refuses to allow an authorized representative of the Department to inspect the premises and records of the facility.

(b) Each day of a continued violation shall constitute a separate violation. The penalty for each violation shall be ten dollars ($10.00) per day per patient affected by the violation.

(c) Any facility wishing to contest a penalty shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150A of the General Statutes.

(d) The Secretary may bring a civil action in the Superior Court of Wake County to recover the amount of the administrative penalty whenever a facility:

(1) Which has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of the penalty, or

(2) Which has requested an administrative hearing fails to pay the penalty within 60 days after receipt of a written copy of the decision as provided in G.S. 150A-36.

"§ 131E-127. *No interference with practice of medicine or physician-patient relationship.*—Nothing in this Part shall be construed to interfere with the practice of medicine or the physician-patient relationship.

"§ 131E-128. *Nursing home advisory committees.*—(a) It is the purpose of the General Assembly that community advisory committees work to maintain the intent of this Part within the nursing homes in this State. It is the further purpose of the General Assembly that the committees promote community involvement and cooperation with nursing homes and an integration of these homes into a system of care for the elderly.

(b) (1) A community advisory committee shall be established in each county which has a nursing home, shall serve all the homes in the county, and shall work with each home in the best interest of the persons residing in each home. In a county which has one, two, or three nursing homes, the committee shall have five members. In a county with four or more nursing homes, the committee shall have one additional member for each nursing home in excess of three.

(2) In each county with four or more nursing homes, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each nursing home in the county. Each member must serve on at least one subcommittee.

(3) Each committee shall be appointed by the board of county commissioners. Of the members, a minority (not less than one-third, but as close to one-third as possible) must be chosen from among persons nominated by a majority of the chief administrators of nursing homes in the county. If the nursing home administrators fail to make a nomination within 45 days after written notification has been sent to them by the board of county commissioners requesting a nomination,

these appointments may be made by the board of county commissioners without nominations.

(c) Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a three-year term. Persons who were originally nominees of nursing home chief administrators, or who were appointed by the board of county commissioners when the nursing home administrators failed to make nominations, may not be reappointed without the consent of a majority of the nursing home chief administrators within the county. If the nursing home chief administrators fail to approve or reject the reappointment within 45 days of being requested by the board of county commissioners, the commissioners may reappoint the member if they so choose.

(d) Any vacancy shall be filled by appointment of a person for a one-year term. Any person replacing a member nominated by the chief administrators or a person appointed when the chief administrators failed to make a nomination shall be selected from among persons nominated by the administrators, as provided in subsection (b). If the county commissioners fail to appoint members to a committee, or fail to fill a vacancy, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have been notified of the appointment or vacancy if nomination or approval of the nursing home administrators is not required. If nominations or approval of the nursing home administrators is required, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have received the nomination or approval, or no sooner than 45 days after the nursing home administrators' 45-day period for action has expired.

(e) The committee shall elect from its members a chair, to serve a one-year term.

(f) Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by a committee, or employee or governing board member or immediate family member of an employee or governing board member of a home served by a committee, or immediate family member of a patient in a home served by a committee may be a member of a committee. Membership on a committee shall not be considered an office as defined in G.S. 128-1 or G.S. 128-1.1. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, which shall supply a copy to the Division of Facility Services.

(g) The Division of Aging, Department of Human Resources, shall develop training materials which shall be distributed to each committee member and nursing home. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under subsection (h) of this section. The Division of Aging, Department of Human Resources, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.

(h) (1) Each committee shall apprise itself of the general conditions under which the persons are residing in the homes, and shall work for the best interests of the persons in the homes. This may include assisting persons who have grievances with the home and facilitating the resolution of grievances at the local level.

(2) Each committee shall quarterly visit the nursing home it serves. For each official quarterly visit, a majority of the committee members shall be present. In addition, each committee may visit the nursing home it serves whenever it deems it necessary to carry out its duties. In counties with four or more nursing homes, the subcommittee assigned to a home shall perform the duties of the committee under this subdivision, and a majority of the subcommittee members must be present for any visit.

(3) Each member of a committee shall have the right between 10:00 A.M. and 8:00 P.M. to enter into the facility the committee serves in order to carry out the members' responsibilities. In a county where subcommittees have been established, this right of access shall be limited to homes served by those subcommittees to which the member has been appointed.

(4) The committee or subcommittee may communicate through its chair with the Department or any other agency in relation to the interest of any patient. The names of all complaining persons shall remain confidential unless written permission is given for disclosure.

(5) Each home shall cooperate with the committee as it carries out its duties.

(6) Before entering into any nursing home, the committee, subcommittee, or member shall identify itself to the person present at the facility who is in charge of the facility at that time.

"§ 131E-129 through 131E-134: Reserved for future codification purposes.

"Part C. Home Health Agency Licensure Act.

"§ 131E-135. *Title; purpose.*—(a) This Part shall be known as 'Home Health Agency Licensure Act'.

(b) The purpose of this Part is to establish licensing requirements for home health agencies.

"§ 131E-136. *Definitions.*—As used in this Part, unless otherwise specified:

(a) 'Commission' means the Commission for Health Services.

(b) 'Home health agency' means a private organization which provides home health services.

(c) 'Home health services' means health care and medical services and medical supplies provided to an individual by a home health agency or by others under arrangements with the agency, on a visiting basis, in a place of temporary or permanent residence used as an individual's home. The services may include but are not limited to the following:

(1) Part-time or intermittent nursing care provided by or under the supervision of a registered nurse;

(2) Physical, occupational or speech therapy;

(3) Medical social services, home health aid services, and other therapeutic services;

(4) Medical supplies, other than drugs and biologicals, and the use of medical appliances.

"§ 131E-137. *Home health services to be provided in all counties.*—(a) Every county shall provide home health services as defined in this Part.

(b) For purposes of this section, home health services shall be as defined in this Part, except that these services may be provided by any organization listed in subsection (c) of this section.

(c) Home health services may be provided by a county health department, by a district health department, by a home health agency licensed under this Part, or by a public agency. The county may provide home health services by contract with another health department or with a home health agency or public agency in another county.

(d) After December 31, 1979, the provisions of this section shall not apply to Pamlico County as long as it continues to furnish an equivalent home health service to clients as provided by this section.

"§ 131E-138. *Licensure requirements.*—(a) No person shall operate a home health agency without a license obtained from the Department.

(b) An applicant shall provide nursing service and at least one other home health service, as stated in G.S. 131E-136(c).

(c) An application for a license shall be available from the Department, and each application filed with the Department shall contain all information requested by the Department. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part.

(d) The Department shall renew the license in accordance with the rules of the Commission.

(e) Each license shall be issued only for the premises and persons named in the license and shall not be transferable or assignable except with the written approval of the Department.

(f) The license shall be posted in a conspicuous place on the licensed premises.

"§ 131E-139. *Adverse action on a license.*—(a) The Department may suspend, revoke, annul, withdraw, recall, cancel or amend a license when there has been a substantial failure to comply with the provisions of this Part or the rules promulgated under this Part.

(b) The provisions of Chapter 150A of the General Statutes, The Administrative Procedure Act, shall govern all administrative action and judicial review in cases where the Department has taken the action described in subsection (a).

"§ 131E-140. *Rules and enforcement.*—(a) The Commission is authorized to adopt, amend and repeal all rules necessary for the implementation of this Part.

(b) The Department shall enforce the rules adopted or amended by the Commission with respect to home health agencies.

"§ 131E-141. *Inspection.*—(a) The Department shall inspect home health agencies in accordance with rules adopted by the Commission to determine compliance with the provisions of this Part and the rules established by the Commission.

(b) Notwithstanding the provisions of G.S. 8-53, 'Communications between physician and patient,' or any other provision of law relating to the confidentiality of communications between physician and patient, the representatives of the Department who make these inspections may review any writing or other record in any recording medium which pertains to the

admission, discharge, medication, treatment, medical condition, or history of persons who are or have been clients of the agency being inspected unless that client objects in writing to review of that client's records. Physicians, psychiatrists, nurses, and anyone else involved in giving treatment at or through an agency who may be interviewed by representatives of the Department may disclose to these representatives information related to any inquiry, notwithstanding the existence of the physician-patient privilege in G.S. 8-53, 'Communication between physician and patient,' or any other rule of law; provided the client has not made written objection to this disclosure. The agency, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the client or legal representative, or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning an agency without the consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132-1, 'Public Records' defined. Prior to releasing any information or allowing any inspections referred to in this section, the client must be advised in writing by the licensed agency that the client has the right to object in writing to release of information or review of the client's records and that by an objection in writing the client may prohibit the inspection or release of the records.

"§ 131E-142. *Injunction.*— (a) Notwithstanding the existence or pursuit of any other remedy, the Department may, in the manner provided by law, maintain an action in the name of the State for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a home health agency without a license.

(b) If any person shall hinder the proper performance of duty of the Secretary or a representative in carrying out the provisions of this Part, the Secretary may institute an action in the superior court of the county in which the hindrance occurred for injunctive relief against the continued hindrance irrespective of all other remedies at law.

(c) Actions under this section shall be in accordance with Article 37 of Chapter 1 of the General Statutes and Rule 65 of the Rules of Civil Procedure.

"§ 131E-143 through 131E-144: Reserved for future codification purposes.

"Part D. Ambulatory Surgical Facility Licensure.

"§ 131E-145. *Title; purpose.*—(a) This Part shall be known as the 'Ambulatory Surgical Facility Licensure Act'.

(b) The purpose of this Part is to provide for the development, establishment and enforcement of basic standards:

(1) For the care and treatment of individuals in ambulatory surgical facilities; and

(2) For the maintenance and operation of ambulatory surgical facilities so as to ensure safe and adequate treatment of such individuals in ambulatory surgical facilities.

"§ 131E-146. *Definitions.*—As used in this Part, unless otherwise specified:

(a) 'Ambulatory surgical facility' means a public or private facility, not a part of a hospital, which provides surgical treatment to patients not requiring hospitalization. This term does not include the offices of private physicians or dentists, whether for individual or group practice, unless they elect to apply for licensing.

(b) 'Commission' means the North Carolina Medical Care Commission.

"§ 131E-147. *Licensure requirement.*—(a) No person shall operate an ambulatory surgical facility without a license obtained from the Department.

(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part.

(c) A license to operate an ambulatory surgical facility shall be annually renewed upon the filing and the department's approval of a renewal application. The renewal application shall be available from the Department and shall contain all necessary and reasonable information that the Department may by rule require.

(d) Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written approval of the Department.

(e) Licenses shall be posted in a conspicuous place on the licensed premises.

"§ 131E-148. *Adverse action on a license.*—(a) Subject to subsection (b), the Department is authorized to deny a new or renewal application for a license, and to amend, recall, suspend or revoke an existing license upon a determination that there has been a substantial failure to comply with the provisions of this Part or the rules promulgated under this Part.

(b) The provisions of Chapter 150A of the General Statutes, the Administrative Procedure Act, shall govern all administrative action and judicial review in cases where the Department has taken the action described in subsection (a).

"§ 131E-149. *Rules and enforcement.*—(a) The Commission is authorized to adopt, amend and repeal all rules necessary for the implementation of this Part. These rules shall be no stricter than those issued by the Commission under G.S. 131E-79 of the Hospital Licensing Act.

(b) The Department shall enforce the rules adopted or amended by the Commission with respect to ambulatory surgical facilities.

"§ 131E-150. *Inspections.*—(a) The Department shall make or cause to be made inspections of ambulatory surgical facilities as necessary. The Department is authorized to delegate to a State officer, agent, board, bureau or division of State government the authority to make inspections according to the rules adopted by the Commission. The Department may revoke this delegated authority in its discretion.

(b) Notwithstanding the provisions of G.S. 8-53, 'Communications between physician and patient,' or any other provision of law relating to the

confidentiality of communications between physician and patient, the representatives of the Department who make these inspections may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been patients of the facility being inspected unless that patient objects in writing to review of that patient's records. Physicians, psychologists, psychiatrists, nurses, and anyone else involved in giving treatment at or through a facility who may be interviewed by representatives of the Department may disclose to these representatives information related to an inquiry, notwithstanding the existence of the physician-patient privilege in G.S. 8-53, 'Communication between physician and patient,' or any other rule of law; provided the patient has not made written objection to this disclosure. The facility, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the patient or legal representative, or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning a facility without the consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132-1, 'Public records' defined. Prior to releasing any information or allowing any inspections referred to in this section, the patient must be advised in writing by the facility that the patient has the right to object in writing to this release of information or review of the records and that by objecting in writing, the patient may prohibit the inspection or release of the records.

"§ 131E-151. *Penalties.*—A person who owns in whole or in part or operates an ambulatory surgical facility without a license is guilty of a misdemeanor, and upon conviction will be subject to a fine of not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of continuing violation after conviction is considered a separate offense.

"§ 131E-152. *Injunction.*—(a) Notwithstanding the existence or pursuit of any other remedy, the Department may, in the manner provided by law, maintain an action in the name of the State for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of an ambulatory surgical facility without a license.

(b) If any person shall hinder the proper performance of duty of the Secretary or a representative in carrying out the provisions of this Part, the Secretary may institute an action in the superior court of the county in which the hindrance occurred for injunctive relief against the continued hindrance, irrespective of all other remedies at law.

(c) Actions under this section shall be in accordance with Article 37 of Chapter 1 of the General Statutes and Rule 65 of the Rules of Civil Procedure.

"§ 131E-153 through 131E-154: Reserved for future codification purposes.

"Article 7.

"Regulation of Ambulance Services.

"§ 131E-155. *Definitions.*—As used in this Article, unless otherwise specified:

(a) 'Ambulance' means any privately or publicly owned motor vehicle, aircraft, or vessel that is specially designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways or airways of this State of persons who are sick, injured, wounded, or otherwise incapacitated or helpless.

(b) 'Ambulance attendant' means an individual who has completed a training program in emergency medical care and first aid approved by the Department and has been certified as an ambulance attendant by the Department.

(c) 'Ambulance provider' means an individual, firm, corporation or association who engages or professes to engage in the business or service of transporting patients in an ambulance.

(d) 'Commission' means the North Carolina Medical Care Commission.

(e) 'Emergency medical technician' means an individual who has completed a training program in emergency medical care at least equal to the National Standard Training Program for emergency medical technicians as defined by the United States Department of Transportation and has been certified as an emergency medical technician by the Department.

(f) 'Patient' means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated while being transported to or from a medical facility.

(g) 'Practical examination' means a test where an applicant for certification or recertification as an emergency medical technician or ambulance attendant demonstrates the ability to perform specified emergency medical care skills.

"§ 131E-156. *Permit required to operate ambulance.*—(a) No person, firm, corporation, or association, either as owner, agent, provider, or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to be engaged in the business or service of transporting patients upon the streets or highways, waterways or airways in North Carolina unless a valid permit from the Department has been issued for each ambulance used in the business or service.

(b) Before a permit may be issued for a vehicle to be operated as an ambulance, the ambulance provider must apply to the Department for an ambulance permit. Application shall be made upon forms and according to procedures established by the Department. Prior to issuing an original or renewal permit for an ambulance, the Department shall determine that the vehicle for which the permit is issued meets all requirements as to equipment, design, supplies and sanitation as set forth in this Article and in the rules of the Commission and that the ambulance provider has the certified personnel necessary to operate the ambulance in accordance with this Article. Permits issued for ambulances shall be valid for a period specified by the Department, not to exceed one year.

(c) Duly authorized representatives of the Department may issue temporary permits for vehicles not meeting required standards for a period not to exceed 60 days, when it determines the public interest will be served.

(d) When a permit has been issued for an ambulance as specified by this Article, the vehicle and records relating to the maintenance and operation of the vehicle shall be open to inspection by duly authorized representatives of the Department at all reasonable times.

"§ 131E-157. *Standards for equipment; inspection of equipment and supplies required for ambulances.*—(a) The Commission shall adopt rules specifying equipment, sanitation, supply and design requirements for ambulances.

(b) The Department shall inspect each ambulance for compliance with the requirements set forth by the Commission and this Article when it deems an inspection is necessary. The Department shall maintain a record of the inspection.

(c) Upon a determination, based upon an inspection, that an ambulance fails to meet the requirements of this Article or rules adopted under this Article, the Department may suspend or revoke the permit for the ambulance concerned until these requirements are met.

"§ 131E-158. *Certified personnel required.*—(a) Every ambulance when transporting a patient on an emergency mission shall be occupied at a minimum by the following:

(1) At least one emergency medical technician who shall be responsible for the medical aspects of the mission prior to arrival at the medical facility, assuming no other individual of higher certification or license is available; and

(2) One ambulance attendant who is responsible for the operation of the vehicle and rendering assistance to the emergency medical technician.

(b) The Commission shall adopt rules setting forth exemptions to the requirements stated in (a) of this section applicable to situations where exemptions are considered by the Commission to be in the public interest.

"§ 131E-159. *Requirements for certification.*—(a) An individual seeking certification as an emergency medical technician or ambulance attendant shall apply to the Department using forms prescribed by that agency. The Department's representatives shall examine the applicant for emergency medical technician by written and practical examination and the applicant for ambulance attendant by written (or oral if requested) and practical examination. The Department shall issue a certificate to the applicant who meets all the requirements set forth in this Article and the rules adopted for this Article and who successfully completes the examinations required for certification. Emergency medical technician and ambulance attendant certificates shall be valid for a period not to exceed two years and may be renewed after reexamination if the holder meets the requirements set forth in the rules of the Commission. The Department is authorized to revoke or suspend a certificate at any time it determines that the holder no longer meets the qualifications prescribed for emergency medical technicians or for ambulance attendants.

(b) The Commission shall adopt rules setting forth the qualifications required for certification of ambulance attendants and emergency medical technicians.

(c) Duly authorized representatives of the Department may issue temporary certificates with or without examination upon finding that this action will be in the public interest. Temporary certificates shall be valid for a period not exceeding 90 days.

"§ 131E-160. *Exemptions.*—The following vehicles are exempt from the provisions of this Article:

(1) Privately owned vehicles not regularly used in the business of transporting patients;

(2) A vehicle rendering service as an ambulance in case of a major catastrophe or emergency, when the permitted ambulances based in the locality of the catastrophe or emergency are insufficient to render the services required;

(3) Any ambulance based outside this State, except that an ambulance which receives a patient within this State for transportation to a location within this State shall comply with the provisions of this Article;

(4) Ambulances owned and operated by an agency of the United States government; and

(5) Vehicles owned and operated by rescue squads chartered by the State of North Carolina as nonprofit corporations or associations which are not regularly used to transport sick, injured, wounded or otherwise incapacitated or helpless persons except as a part of rescue operations.

"§ 131E-161. *Violation declared misdemeanor.*—It shall be the responsibility of the ambulance provider to ensure that the ambulance operation complies with the provisions of this Article and all rules adopted for this Article. Upon the violation of any part of this Article or any rule adopted under authority of this Article, the Department shall have the power to revoke or suspend the permits of all vehicles owned or operated by the violator. The operation of an ambulance without a valid permit or after a permit has been suspended or revoked or without an emergency medical technician and ambulance attendant aboard as required by G.S. 131E-158, shall constitute a misdemeanor punishable by a fine or imprisonment or both in the discretion of the court.

"§ 131E-162 through 131E-164: Reserved for future codification purposes.

"Article 8.

"Cardiac Rehabilitation Certification Program.

"§ 131E-165. *Title; purpose.*—(a) This Article shall be known as the 'Cardiac Rehabilitation Certification Program'.

(b) The purpose of this Article is to provide for the development, establishment, and enforcement of basic rules and certification:

(1) For the care and treatment of individuals in out-of-hospital cardiac rehabilitation programs; and

(2) For the maintenance and operation of cardiac rehabilitation programs to ensure safe and adequate treatment of individuals in cardiac rehabilitation programs.

"§ 131E-166. *Definitions.*—As used in this Article, unless otherwise specified:

(1) 'Cardiac Rehabilitation Program' means a program certified under this Article for the delivery of cardiac rehabilitation services to clients in environments other than hospitals and includes, but shall not be limited to, coordinated, physician-directed, individualized programs of therapeutic activity and adaption designed to assist the cardiac patient in attaining the highest rehabilitative potential.

(2) 'Certification' means the issuance of a certificate by the Department upon determination that cardiac rehabilitation services offered at a given program site meet all cardiac rehabilitation program rules.

"§ 131E-167. *Certificate requirement.*—(a) Applications for certification shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A certificate shall be granted to the applicant for a period not to exceed two years upon a determination by the Department

that the applicant has substantially complied with the provisions of this Article and the rules promulgated by the Department under this Article.

(b) A provisional certificate may be issued for a period not to exceed six months to a program:

(1) That does not substantially comply with the rules, when failure to comply does not endanger the health, safety, or welfare of the clients being served by the program;

(2) During the initial stages of operation if determined appropriate by the Department.

(c) Prior to offering a cardiac rehabilitation program as defined in this Article, such a program must be inspected, evaluated, and certified as having substantially met the rules adopted by the Department under this Article.

(d) A certificate to operate a Cardiac Rehabilitation Program shall be renewed upon the successful re-evaluation of the program as stated in the rules adopted pursuant to this Article.

(e) Each certificate shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written approval of the Department.

(f) A certificate shall be posted in a conspicuous place on the certified premises.

"§ 131E-168. *Adverse action on a certificate.*—(a) Subject to subsection (b), the Department is authorized to deny a new or renewal certificate and to suspend or revoke an existing certificate upon determination that there has been a substantial failure to comply with the provisions of this Article or the rules promulgated under this Article.

(b) The provisions of Chapter 150A of the General Statutes, the Administrative Procedure Act, shall govern all administrative action and judicial review in cases where the Department has taken the action described in subsection (a).

"§ 131E-169. *Rules and enforcement.*—(a) The Department is authorized to adopt, amend, and repeal all rules as may be designed to further the accomplishment of this Article.

(b) The Department shall enforce the rules adopted for the certification of cardiac rehabilitation programs.

"§ 131E-170. *Inspections.*—(a) The Department shall make or cause to be made inspections of Cardiac Rehabilitation Programs as it deems necessary. The Department is empowered to delegate to a State officer, agent, board, bureau or division of State government the authority to make these inspections according to the rules promulgated by the Department. In addition, an individual who is not a State officer or agent and who is delegated the authority to make these inspections must be approved by the Department. The Department may revoke this delegated authority in its discretion.

(b) Notwithstanding the provisions of G.S. 8-53, 'Communications between physician and patient,' or any other provision of law relating to the confidentiality of communications between physician and patient, the representatives of the Department who make these inspections may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been patients of the program being inspected unless that patient objects in writing to review of that patient's records. Physicians,

psychiatrists, nurses, and anyone else involved in giving treatment at or through a program who may be interviewed by representatives of the Department may disclose to these representatives information related to any inquiry, notwithstanding the existence of the physician-patient privilege in G.S. 8-53, 'Communication between physician and patient,' or any other rule of law, provided the patient has not made written objection to this disclosure. The program, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the patient or legal representative, or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning a facility without the consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132-1, 'Public Records' defined. Prior to releasing any information or allowing any inspections referred to in this section, the patient must be advised in writing by the program that the patient has the right to object in writing to the release of information or review of the records and that by an objection in writing the patient may prohibit the inspection or release of the records.

"§ 131E-171 through 131E-174: Reserved for future codification purposes.

"Article 9.

"Certificate of Need.

"§ 131E-175. *Findings of fact.*—The General Assembly of North Carolina makes the following findings:

(1) That, because of the manner in which health care is financed, the forces of free market competition are largely absent and that government regulation is therefore necessary to control the cost, utilization, and distribution of health services.

(2) That the continuously increasing cost of health care services threatens the health and welfare of the citizens of this State in that citizens need assurance of economical and readily available health care.

(3) That the current system of planning for health care facilities and equipment has led to the proliferation of new inpatient acute care facilities and medical equipment beyond the need of many localities in this State and an inadequate supply of health personnel and of resources for long term, intermediate, and ambulatory care in many localities.

(4) That this trend of proliferation of unnecessary health care facilities and equipment results in costly duplication and underuse of facilities, with the availability of excess capacity leading to unnecessary use of expensive resources and overutilization of acute care hospital services by physicians.

(5) That a certificate of need law is required by Title XV of the Public Health Service Act as a condition for receipt of federal funds. If these funds were withdrawn the State of North Carolina would lose in excess of fifty-five million dollars ($55,000,000).

(6) That excess capacity of health facilities places an enormous economic burden on the public who pay for the construction and operation of these facilities as patients, health insurance subscribers, health plan contributors, and taxpayers.

(7) That the general welfare and protection of lives, health, and property of the people of this State require that new institutional health services to be offered within this State be subject to review and evaluation as to type, level, quality of care, feasibility, and other criteria as determined by provisions of this Article or by the North Carolina Department of Human Resources pursuant to provisions of this Article prior to such services being offered or developed in order that only appropriate and needed institutional health services are made available in the area to be served.

"§ 131E-176. *Definitions.*—As used in this Article, unless the context clearly requires otherwise, the following terms have the meanings specified:

(1) 'Ambulatory surgical facility' means a public or private facility, not a part of a hospital, which provides surgical treatment to patients not requiring hospitalization. Such term does not include the offices of private physicians or dentists, whether for individual or group practice, unless they elect to apply for licensure under Chapter 131E, Article 6, Part D of the General Statutes.

(2) 'Bed capacity' means space used exclusively for inpatient care, including space designed or remodeled for licensed inpatient beds even though temporarily not used for such purposes. The number of beds to be counted in any patient room shall be the maximum number for which adequate square footage is provided as established by regulations of the Department except that single beds in single rooms are counted even if the room contains inadequate square footage.

(2a) 'Capital expenditure' means an expenditure which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance.

(3) 'Certificate of need' means a written order of the Department setting forth the affirmative findings that a proposed project sufficiently satisfies the plans, standards, and criteria prescribed for such projects by this Article and by rules and regulations of the Department as provided in G.S. 131E-183(a) and which affords the person so designated as the legal proponent of the proposed project the opportunity to proceed with the development of such project.

(4) 'Certified cost estimate' means an estimate of the total cost of a project certified by the proponent of the project within 60 days prior to or subsequent to the date of submission of the proposed new institutional health service to the Department and which is based on:

a. Preliminary plans and specifications;

b. Estimates of the cost of equipment certified by the manufacturer or vendor; and

c. Estimates of the cost of management and administration of the project.

(5) 'Change in bed capacity' means (i) an increase or decrease in the total number of beds, (ii) a redistribution of beds among different categories, or (iii) a relocation of beds from one physical facility or site to another, if the change exceeds 10 beds or ten percent (10%) of bed capacity, whichever is less, in any two-year period.

(6) 'Department' means the North Carolina Department of Human Resources.

(7) To 'develop' when used in connection with health services, means to undertake those activities which will result in the offering of institutional health service not provided in the previous 12-month reporting period or the incurring of a financial obligation in relation to the offering of such a service.

(8) 'Final decision' means an approval, an approval with conditions, or denial of an application for a certificate of need.

(9) 'Health care facilities' means hospitals; skilled nursing facilities; kidney disease treatment centers, including freestanding hemodialysis units; intermediate care facilities, including intermediate care facilities for the mentally retarded or persons with related conditions; rehabilitation facilities; home health agencies; and ambulatory surgical facilities.

(10) 'Health maintenance organization (HMO)' means a public or private organization which has received its certificate of authority under Chapter 57B of the General Statutes and which either is a qualified health maintenance organization under Section 1310(d) of the Public Health Service Act or:

a. Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area coverage;

b. Is compensated, except for copayments, for the provision of the basic health care services listed above to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and

c. Provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii) through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(11) 'Health systems agency' means an agency, as defined by Title XV of the Public Health Service Act, as amended, and rules and regulations implementing that act.

(12) 'Home health agencies' means a private organization or public agency, whether owned or operated by one or more persons or legal entities, which furnishes or offers to furnish home health services.

'Home health services' means items and services furnished to an individual by a home health agency, or by others under arrangements with such others made by the agency, on a visiting basis, and except for paragraph e. of this subdivision, in a place of temporary or permanent residence used as the individual's home as follows:

a. Part-time or intermittent nursing care provided by or under the supervision of a registered nurse;

b. Physical, occupational or speech therapy;

c. Medical social services, home health aid services, and other therapeutic services;

d. Medical supplies, other than drugs and biologicals, and the use of medical appliances;

e. Any of the foregoing items and services which are provided on an outpatient basis under arrangements made by the home health agency at a hospital or nursing home facility or rehabilitation center and the furnishing of which involves the use of equipment of such a nature that

the items and services cannot readily be made available to the individual in his home, or which are furnished at such facility while he is there to receive any such item or service, but not including transportation of the individual in connection with any such item or service.

(13) 'Hospital' means a public or private institution which is primarily engaged in providing to inpatients, by or under supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such term does include psychiatric hospitals, as defined in subdivision (21) of this section, or tuberculosis hospitals, as defined in subdivision (27) of this section.

(14) 'Intermediate care facility' means a public or private institution which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require health-related care and services above the level of room and board. This term includes intermediate care facilities for the mentally retarded or persons with related conditions such as epilepsy, cerebral palsy, or autism.

(15) 'Major medical equipment' means a single unit or a single system of components with related functions which is used to provide medical and other health services and which costs more than four hundred thousand dollars ($400,000). This does not include medical equipment acquired by or on behalf of a clincial laboratory to provide clinical laboratory services, if the clinical laboratory is independent of a physician's office and a hospital and has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of Section 1861(s) of that act. In determining whether medical equipment costs more than four hundred thousand dollars ($400,000), the costs of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to acquiring the equipment shall be included. If the equipment is acquired for less than fair market value, the cost shall be deemed to be the fair market value.

(16) 'New institutional health services' means:

a. The construction, development, or other establishment of a new health care facility;

b. The obligation by or on behalf of a health care facility or a local health department established under Article 2 of Chapter 130A of the General Statutes of any capital expenditure, other than one to acquire an existing health care facility, which exceeds the expenditure minimum. Further, increases in approved capital expenditures, if they exceed the expenditure minimum, are also new institutional health services. The expenditure minimum is six hundred thousand dollars ($600,000) for the 12-month period beginning October 1, 1979. For each 12-month period thereafter the expenditure minimum shall be the figure in effect for the preceding 12-month period, adjusted to reflect the change in the preceding 12-month period in the Department of Commerce Composite Construction Cost Index. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities, including staff effort and consulting and other services, essential to the

acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if the expenditure exceeds the expenditure minimum;

c. The obligation of any capital expenditure by or on behalf of any health care facility which is associated with a change in bed capacity;

d. The obligation of any capital expenditure by or on behalf of a health care facility which is associated with the addition of a health service which was not offered by or on behalf of the facility within the previous 12 months or with the termination of a health service which was offered in or through the facility;

e. A change in a project which was subject to review under paragraphs a, b, c, or d of this subdivision and for which a certificate of need had been issued, if the change is proposed within one year after the project was completed. For the purposes of this paragraph, a change in a project is a change in bed capacity, the addition of a health service, or the termination of a health service, regardless of whether a capital expenditure is associated with the change;

f. The offering of a health service by or on behalf of a health care facility if the service was not offered by or behalf of the health care facility in the previous 12 months and if the annual operating costs of the service equal or exceed the expenditure minimum. The expenditure minimum for annual operating costs is two hundred fifty thousand dollars ($250,000) for the 12-month period beginning October 1, 1979. For each 12-month period thereafter the expenditure minimum shall be the figure in effect for the preceding 12-month period, adjusted to reflect the change in the preceding 12-month period in the Department of Commerce Composite Construction Cost Index;

g. The acquisition by any person of major medical equipment that will be owned by or located in a health care facility;

h. The acquisition by any person of major medical equipment not owned by or located in a health care facility if notice of the acquisition is not filed with the Department in accordance with rules promulgated by the Department, or the Department, within 30 days after receipt of the notice, finds that the equipment will be used to provide services to inpatients of a hospital, excluding use on a temporary basis in the case of a natural disaster, a major accident, or equipment failure;

i. The use, excluding use on a temporary basis in the case of a natural disaster, a major accident, or equipment failure, of major medical equipment which was acquired without a certificate of need, to treat inpatients of a hospital;

j. The obligation of a capital expenditure by any person to acquire an existing health care facility, if a notice of intent is not filed with the Department in accordance with rules promulgated by the Department, or the Department, within 30 days after receipt of the notice of intent, finds that there will be a change in bed capacity, the addition of a health service not offered by or on behalf of the facility within the previous 12 months, or the termination of a health service which was offered by or on behalf of the facility;

k. A change in bed capacity, the addition of a health service which was not offered by or on behalf of the facility within the previous 12 months, or the termination of a health service which was offered by or on behalf of the facility, in a health care facility which was acquired without a certificate of need, if such change occurs within one year of the acquisition;

l. Notwithstanding the provisions of G.S. 131E-176(16)h and j, the purchase, lease or acquisition of any of the following: any health care facility, or portion thereof; major medical equipment; a controlling interest in the health care facility, or portion thereof; or a controlling interest in major medical equipment. The aforesaid are new institutional health services if the asset was obtained under a certificate of need issued pursuant to G.S. 131E-180;

m. Any conversion of nonhealth care facility beds to health care facility beds, regardless of whether a capital expenditure is associated with the conversion. A bed is a nonhealth care facility bed if a facility that contained only that type of bed would not be a health care facility. A bed is a health care facility bed if a facility that contained only that type of bed would be a health care facility.

(17) 'North Carolina State Health Coordinating Council' means the Council as defined by Title XV of the Public Health Service Act, as amended, and rules and regulations implementing that act.

(18) To 'offer,' when used in connection with health services, means that the health care facility or health maintenance organization holds itself out as capable of providing, or as having the means for the provision of, specified health services.

(19) 'Person' means an individual, a trust or estate, a partnership, a corporation, including associations, joint stock companies, and insurance companies; the State, or a political subdivision or agency or instrumentality of the State.

(20) 'Project' or 'capital expenditure project' means a proposal to undertake a capital expenditure that results in the offering of a new institutional health service as defined by this Article. A project, or capital expenditure project, or proposed project may refer to the project from its earliest planning stages up through the point at which the specified new institutional health service may be offered. In the case of facility construction, the point at which the new institutional health service may be offered must take place after the facility is capable of being fully licensed and operated for its intended use, and at that time it shall be considered a health care facility.

(21) 'Psychiatric hospital' means a public or private institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons.

(22) 'Rehabilitation facility' means a public or private inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services which are provided under competent, professional supervision.

(23) 'Skilled nursing facility' means a public or private institution or a distinct part of an institution which is primarily engaged in providing to inpatients skilled nursing care and related services for patients who require

medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

(24) 'State Health Plan' means the plan required by Title XV of the Public Health Service Act, as amended, and rules and regulations implementing that act.

(25) 'State Medical Facilities Plan' means a plan prepared by the Department of Human Resources and the North Carolina State Health Coordinating Council, as required by Title XV of the Public Health Service Act, as amended, and rules and regulations implementing that act.

(26) 'State Mental Health Plan' means the plan prepared by the Department of Human Resources under P.L. 94-63 for the purposes of providing an inventory of existing mental health and mental retardation services, and of establishing priorities for the development of new services to adequately meet the identified needs.

(27) 'Tuberculosis hospital' means a public or private institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis.

"§ 131E-177. *Department of Human Resources is designated State Health Planning and Development Agency; powers and duties.*—The Department of Human Resources is designated as the State Health Planning and Development Agency for the State of North Carolina, and is empowered to fulfill responsibilities defined in Title XV of the Public Health Service Act.

The Department shall exercise the following powers and duties:

(1) To establish standards and criteria or plans required to carry out the provisions and purposes of this Article and to adopt rules and regulations pursuant to Chapter 150A of the General Statutes;

(2) Adopt, amend, and repeal such rules and regulations, consistent with the laws of this State, as may be required by the federal government for grants-in-aid for health care facilities and health planning which may be made available by the federal government. This section shall be liberally construed in order that the State and its citizens may benefit from such grants-in-aid;

(3) Define, by regulation, procedures for submission of periodic reports by persons or health facilities subject to agency review under this Article;

(4) Develop policy, criteria, and standards for health care facilities planning, conduct statewide inventories of and make determinations of need for health care facilities, and develop a State plan coordinated with other plans of health systems agencies with other pertinent plans and with the State health plan of the Department;

(5) Implement, by regulation, criteria for project review;

(6) Have the power to grant, deny, suspend, or revoke a certificate of need;

(7) Solicit, accept, hold and administer on behalf of the State any grants or bequests of money, securities or property to the Department for use by the Department or health systems agencies in the administration of this Article;

(8) Develop procedures for appeals of decisions to approve or deny a certificate of need, as provided by G.S. 131E-188.

The Secretary of Human Resources shall have final decision-making authority with regard to all functions described in this section.

"§ 131E-178. *Activities requiring certificate of need.*—(a) No person shall offer or develop a new institutional health service without first obtaining a certificate of need from the Department.

(b) No person shall make an acquisition by donation, lease, transfer, or comparable arrangement without first obtaining a certificate of need from the Department, if the acquisition would have been a new institutional health service if it had been made by purchase. In determining whether an acquisition would have been a new institutional health service the fair market value of the asset shall be deemed to be the purchase price.

(c) No person shall incur an obligation for a capital expenditure which is a new institutional health service without first obtaining a certificate of need from the Department. An obligation for a capital expenditure is incurred by or on behalf of a health care facility when:

(1) An enforceable contract, excepting contracts which are expressly contingent upon issuance of a certificate of need, is entered into by or on behalf of the health care facility for the construction, acquisition, lease or financing of a capital asset;

(2) The governing body of a health care facility takes formal action to commit its own funds for a construction project undertaken by the health care facility as its own contractor; or

(3) In the case of donated property, the date on which the gift is completed.

(d) Where the estimated cost of a proposed capital expenditure is certified by a licensed architect or engineer to be equal to or less than the expenditure minimum for capital expenditure, such expenditure shall be deemed not to exceed the expenditure minimum for capital expenditures regardless of the actual amount expended, provided that the following conditions are met:

(1) The certified estimated cost is prepared in writing 60 days or more before the obligation for the capital expenditure is incurred. Certified cost estimates shall be available for inspection at the facility and sent to the Department upon its request.

(2) The facility on whose behalf the expenditure was made notifies the Department in writing within 30 days of the date on which such expenditure is made if the expenditure exceeds the expenditure minimum for capital expenditures. The notice shall include a copy of the certified cost estimate.

(e) The Department may grant certificates of need which permit capital expenditures only for predevelopment activities. Predevelopment activities include the preparation of architectural designs, plans, working drawings, or specifications, the preparation of studies and surveys, and the acquisition of a potential site.

"§ 131E-179. *Research activities.*—(a) Notwithstanding any other provisions of this Article, a health care facility may acquire major medical equipment to be used solely for research, offer institutional health services to be used solely for research, or incur the obligation of a capital expenditure solely for research, without a certificate of need, if the Department grants an exemption. The Department shall grant an exemption if the health care facility files a notice of intent with the Department in accordance with rules promulgated by the Department and if the Department finds that the acquisition, offering or obligation will not:

(1) Affect the charges of the health care facility for the provision of medical or other patient care services other than services which are included in the research;

(2) Substantially change the bed capacity of the facility; or

(3) Substantially change the medical or other patient care services of the facility.

(b) After a health care facility has received an exemption pursuant to subsection (a) of this section, it shall not use the major medical equipment, offer the institutional health services, or use the equipment or facility acquired through the capital expenditure, in a manner which affects the charges of the facility for the provision of medical or other patient care services, other than the services which are included in the research, without first obtaining a certificate of need from the Department.

(c) Any of the activities described in subsection (a) of this section shall be deemed to be solely for research even if they include patient care provided on an occasional and irregular basis and not as a part of the research program.

"§ 131E-180. *Health maintenance organization.*—(a) Subject to the provisions of subsection (b) of this section, no inpatient health care facility controlled, directly or indirectly, by a health maintenance organization, hereinafter referred to as HMOs, or combination of HMOs, shall offer or develop new institutional health services without first obtaining a certificate of need from the Department. Further, subject to the provisions of subsection (b) of this section, no health care facility of an HMO shall offer or develop any of the new institutional health services specified in G.S. 131E-176(16)g, h, and i without first obtaining a certificate of need from the Department. This section shall not be construed as requiring that a certificate of need be obtained before an HMO is established.

(b) The requirements of subsection (a) of this section shall not apply to any person who receives an exemption under this subsection. In order to receive an exemption an application must be submitted to the Department and the appropriate health systems agency or agencies. The application shall be on forms prescribed by the Department and contain the information required by the Department. The application shall be submitted at a time and in a manner prescribed by the rules and regulations of the Department. The Department shall grant an exemption if it finds that the applicant is qualified or will be qualified on the date the activity is undertaken. Any of the following are qualified applicants:

(1) An HMO or combination of HMOs, if (i) the HMO or combination of HMOs has an enrollment of at least 50,000 individuals in its service area, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals, and (iii) at least seventy-five percent (75%) of the patients who can be reasonably expected to receive the health service will be individuals enrolled in the HMO or HMOs in combination; or

(2) A health care facility, or portion thereof, if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by an HMO or combination of HMOs with an enrollment of at least 50,000 individuals in its service area, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals, and (iv) at least seventy-five percent (75%) of the patients who can be reasonably expected to receive the health service will be individuals enrolled with the HMO or HMOs in combination; or

(3) A health care facility, or portion thereof, if (i) the facility is or will be leased by an HMO or combination of HMOs with an enrollment of at least 50,000 individuals in its service area and on the date the application for exemption is submitted at least 15 years remain on the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals, and (iii) at least seventy-five percent (75%) of the patients who can be reasonably expected to receive the health service will be individuals enrolled with the HMO or HMOs in combination.

(c) If a fee-for-service component of an HMO or combination of HMOs qualifies for an exemption under subsection (b) of this section, then it must be granted an exemption.

(d) In reviewing certificate of need applications submitted pursuant to this section, the Department shall not deny the application solely because the proposal is not addressed in the applicable health systems plan, annual implementation plan or State health plan.

(e) Notwithstanding the review criteria of G.S. 131E-183(a), if an HMO or a health care facility which is controlled, directly or indirectly, by an HMO applies for a certificate of need, the Department shall grant the certificate if it finds, in accordance with G.S. 131E-183(a)(10), that (i) granting the certificate is required to meet the needs of the members of the HMO and of the new members which the HMO can reasonably be expected to enroll, and (ii) the HMO is unable to provide, through services or facilities which can reasonably be expected to be available to the HMO, its health services in a reasonable and cost-effective manner which is consistent with the basic method of operations of the HMO and which makes these services available on a long-term basis through physicians and other health professionals associated with it.

"§ 131E-181. *Nature of certificate of need.*—A certificate of need shall be valid only for the defined scope, physical location, and person named in the application. A certificate of need shall not be transferred or assigned.

"§ 131E-182. *Application.*—(a) The Department in its rules and regulations shall establish schedules for submission and review of completed applications. The schedules, which shall be consistent with federal law and regulations, shall provide that applications for similar proposals in the same health service area will be reviewed together.

(b) An application for a certificate of need shall be made on forms provided by the Department. The application forms, which may vary according to the type of proposal, shall require such information as the Department, by its rules and regulations, deems necessary to conduct the review. An applicant shall be required to furnish only that information necessary to determine whether the proposed new institutional health service is consistent with the review criteria implemented under G.S. 131E-183 and with duly adopted standards, plans and criteria.

"§ 131E-183. *Review criteria.*—(a) The Department shall promulgate rules implementing criteria outlined in this subsection to determine whether an applicant is to be issued a certificate for the proposed project. Criteria so implemented are to be consistent with federal law and regulations and shall cover:

(1) The relationship of the proposed project to the State Medical Facilities Plan, the State Health Plan, and the State Mental Health Plan.

(2) The relationship of services reviewed to the long-range development plan, if any, of the persons providing or proposing such services.

(3) The need that the population served or to be served by such services has for such services, and the extent to which all residents of the area, and in particular low income persons, racial and ethnic minorities, women, handicapped persons and other underserved groups, and the elderly, are likely to have access to those services.

(3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the need that the population presently served has for the service, the extent to which that need will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

(4) The availability of less costly or more effective alternative methods of providing the services to be offered, expanded, reduced, relocated or eliminated.

(5) The immediate and long-term financial feasibility of the proposal, as well as the probable impact of the proposal on the costs of and charges for providing health services by the person proposing the service.

(6) The relationship of the services proposed to be provided to the existing health care system of the area in which such services are proposed to be provided.

(7) The availability of resources, including health manpower, management personnel, and funds for capital and operating needs, for the provision of the services proposed to be provided and the need for alternative uses of these resources as identified by the applicable health systems plan, annual implementation plan or State Health Plan.

(8) The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.

(9) Special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professions schools, multidisciplinary clinics and specialty centers.

(10) The special needs and circumstances of HMOs. These needs and circumstances shall be limited to:

a. The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and

b. The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the Department shall consider only whether the services from these providers:

1. Would be available under a contract of at least five years' duration;

2. Would be available and conveniently accessible through physicians and other health professionals associated with the HMO;

3. Would cost no more than if the services were provided by the HMO; and

4. Would be available in a manner which is administratively feasible to the HMO.

(11) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

(12) In the case of a construction project, the costs and methods of the proposed construction, including the costs and methods of energy provision, and the probable impact of the construction project reviewed on the costs of providing health services by the person proposing the construction project and on the costs and charges to the public of providing health services by other persons.

(13) The contribution of the proposed service in meeting the health-related needs of members of medically underserved groups, such as low income persons, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to health services, particularly those needs identified in the applicable health systems plan, annual implementation plan, and State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the Department shall consider:

a. The extent to which medically underserved populations currently use the applicant's proposed services in comparison to the percentage of the population in the applicant's service area which is medically underserved, and the extent to which medically underserved populations are expected to use the proposed services if approved;

b. The performance of the applicant in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

c. The extent to which Medicare, Medicaid and medically indigent patients are served by the applicant; and

d. The extent to which the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

(14) The effect of the means proposed for delivery of the health services on the clinical needs of health professional training programs in the area in which the services are to be provided.

(15) If the proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools in the area will have access to the services for training purposes.

(16) The special circumstances of health care facilities with respect to the need for conserving energy.

(17) In accordance with Section 1502(b) of the Public Health Service Act, 42 U.S.C. 300k-2(b), the factors which influence the effect of competition on the supply of the health services being reviewed.

(18) Improvements or innovations in the financing and delivery of health services which foster competition, in accordance with Section 1502(b) of the Public Health Service Act, 42 U.S.C. 300k-2(b), and serve to promote quality assurance and cost effectiveness.

(19) In the case of proposed health services or facilities, the efficiency and appropriateness of the use of existing, similar services and facilities.

(20) In the case of existing services or facilities, the quality of care provided in the past.

(21) When an application is made by an osteopathic or allopathic facility for a certificate of need to construct, expand, or modernize a health care facility, acquire major medical equipment, or add services, the need for that construction, expansion, modernization, acquisition of equipment, or addition of services shall be considered on the bases of the need for and availability in the community of services and facilities for osteopathic and allopathic physicians and their patients. The Department shall consider the application in terms of its impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels.

(b) Criteria adopted for reviews in accordance with subsection (a) of this section may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed.

"§ 131E-184. *Required approvals.*—(a) Except as provided in subsection (b), the Department shall issue a certificate of need for a proposed capital expenditure if:

(1) The capital expenditure is required (i) to eliminate or prevent imminent safety hazards as defined in federal, State, or local fire, building, or life safety codes or regulations, or (ii) to comply with State licensure standards, or (iii) to comply with accreditation or certification standards which must be met to receive reimbursement under Title XVIII of the Social Security Act or payments under a State plan for medical assistance approved under Title XIX of that act; and

(2) The Department determines that (i) the facility or services for which the capital expenditure is proposed is needed, and (ii) the obligation of the capital expenditure is consistent with the State Health Plan. Even though the proposal is inconsistent with the State Health Plan, the Department may issue a certificate of need if emergency circumstances pose an imminent threat to public health.

(b) Those portions of a proposed project which are not to eliminate or prevent safety hazards or to comply with certain licensure, certification, or accreditation standards are subject to review under the criteria developed under G.S. 131E-183.

"§ 131E-185. *Review process.*—(a) Except as provided in subsection (c) of this section there shall be a time limit of 90 days for review of the project beginning on the day the Department declares the application 'complete for review,' as established by departmental regulations.

(1) The appropriate health systems agency or agencies shall have 60 days to review each application as to consistency with duly adopted plans, standards, and criteria. Following the review the health systems agency shall submit to the Department its comments and recommendations. The comments may include a recommendation to approve the application, to approve the application with conditions, to defer the application, or to deny the application. Suggested modifications, if any, shall relate directly to the project under review.

(2) The appropriate health systems agency shall, during the course of its review, provide an opportunity for a public meeting at which interested persons may introduce testimony and exhibits.

(3) Any person may file written comments and exhibits concerning a proposal under review with the appropriate health systems agency and the Department.

(b) The Department shall issue as provided in this Article a certificate of need with or without conditions or reject the application within the review period.

(c) The Department shall promulgate rules establishing criteria for determining when it would not be practicable to complete a review within 90 days from receipt of a completed application. If the Department finds that these criteria are met for a particular project, it may extend the review period for a period not to exceed 60 days and provide notice of such extension to all affected persons.

"§ 131E-186. *Final decision.*—The Department shall send its decision along with written findings to the person proposing the new institutional health service and to the Health Systems Agency for the health service area in which the new service is proposed to be offered or developed. In the case of a final decision to 'approve' or 'approve with conditions' a proposal for a new institutional health service, the Department shall issue a certificate of need to the person proposing the new institutional health service.

"§ 131E-187. *Written notice of decision.*—The Department shall, within 15 days after it makes a final decision on an application, provide in writing to the applicant, to the appropriate Health Systems Agency and, upon request to affected persons, the findings and conclusions on which it based its decision, including but not limited to, the criteria used by the Department in making its decision.

"§ 131E-188. *Administrative and judicial review.*—(a) After a decision of the Department to issue, deny or withdraw a certificate of need or exemption, any affected person shall be entitled to a contested case hearing under Article 3 of Chapter 150A of the General Statues, if the Department receives a request therefor within 30 days after its decision.

(b) Any affected person who was a party in a contested case hearing shall be entitled to judicial review of the final agency decision pursuant to Article 4 of Chapter 150A of the General Statutes.

(c) The term 'affected persons' includes: the applicant; the health systems agency for the health service area in which the proposed project is to be located; health systems agencies serving contiguous health service areas or located within the same standard metropolitan statistical area; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health care facilities within that geographic area; health

care facilities and health maintenance organizations (HMOs) located in the health service area in which the project is proposed to be located, which provide services similar to the services of the facility under review; health care facilities and HMOs which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; third party payers who reimburse health care facilities for services in the health service area in which the project is proposed to be located; and any agency which establishes rates for health care facilities or HMOs located in the health service area in which the project is proposed to be located.

"§ 131E-189. *Withdrawal of a certificate of need.*—(a) The Department shall specify in each certificate of need the time the holder has to make the service or equipment available or to complete the project and the timetable to be followed. The timetable shall be the one proposed by the holder of the certificate of need unless at the time the certificate of need is issued the Department determines by a preponderance of the evidence that the timetable proposed by the holder is unreasonable and that a different timetable should be followed by the holder. The holder of the certificate shall submit such periodic reports on his progress in meeting the timetable as may be required by the Department. If, after reviewing the progress, the Department determines that the holder of the certificate is not meeting the timetable and not making a good faith effort to meet it, the Department may, after considering any recommendation made by the appropriate health systems agency, withdraw the certificate.

(b) The Department may withdraw any certificate of need which was issued subject to a condition or conditions, if the holder of the certificate fails to satisfy such condition or conditions.

(c) The Department may withdraw any certificate of need if the holder of the certificate, before completion of the project or operation of the facility, transfers ownership or control of the facility. Transfers resulting from personal illness or other good cause, as determined by the Department, shall not result in withdrawal if the Department receives prior written notice of the transfer and finds good cause. Transfers resulting from death shall not result in withdrawal.

"§ 131E-190. *Enforcement and sanctions.*—(a) Only those new institutional health services which are found by the Department to be needed as provided in this Article and granted certificates of need shall be offered or developed within the State.

(b) No formal commitments made for financing, construction, or acquisition regarding the offering or development of a new institutional health service shall be made by any person unless a certificate of need for such service or activities has been granted.

(c) Nothing in this Article shall be construed as terminating the P.L. 92-603, Section 1122, capital expenditure program or the contract between the State of North Carolina and the United States under that program. The sanctions available under that program and contract, with regard to the determination of whether the amounts attributable to an applicable project or capital expenditure project should be included or excluded in determining payments to the proponent under Titles V, XVIII, and XIX of the Social Security Act, shall remain available to the State.

(d) If any health care facility proceeds to offer or develop a new institutional health service without having first obtained a certificate of need for such services, the penalty for such violation of this Article and rules and regulations

hereunder is the withholding of federal and State funds under Titles V, XVIII, and XIX of the Social Security Act for reimbursement of capital and operating expenses related to the provision of the new institutional health service.

(e) If any health care facility proceeds to offer or develop a new institutional health service without having first obtained a certificate of need for such services, the licensure for such facility may be revoked or suspended by the Medical Care Commission, or the Commission for Health Services, as appropriate.

(f) A civil penalty of not more than twenty thousand dollars ($20,000) may be assessed by the Department against any person who knowingly offers or develops any new institutional health service within the meaning of this Article without a certificate of need issued under this Article and the rules and regulations pertaining thereto, or in violation of the terms of such a certificate. In determining the amount of the penalty the Department shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. The Department may assess the penalties provided for in this subsection. Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the Department within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the Department may specify, the Department may institute a civil action in the superior court of the county in which the violation occurred or, in the discretion of the Department, in the superior court of the county in which the person assessed has his principal place of business, to recover the amount of the assessment. In any such civil action, the scope of the court's review of the Department's action (which shall include a review of the amount of the assessment), shall be as provided in Chapter 150A of the General Statutes. For the purpose of this subsection, the word 'person' shall not include an individual in his capacity as an officer, director, or employee of a person as otherwise defined in this Article.

(g) No agency of the State or any of its political subdivisions may appropriate or grant funds or financially assist in any way a person, applicant, or facility which is or whose project is in violation of this Article.

(h) If any health care facility proceeds to offer or develop a new institutional health service without having first obtained a certificate of need for such services, the Secretary of Human Resources or any person aggrieved, as defined by G.S. 150A-2(6), may bring a civil action for injunctive relief, temporary or permanent, against the person offering, developing or operating any new institutional health service.

"§ 131E-191. *Venue.*—(a) Any action brought by a 'person aggrieved' as defined by G.S. 150A-2(6), to enforce the provisions of this Article against any health care facility as defined in G.S. 131E-176(9), or its agents or employees, may be brought in the superior court of any county in which the cause of action arose or in the county in which the health care facility is located, or in Wake County.

(b) An action brought by a 'party' as defined by G.S. 150A-2(5), who has exhausted all administrative remedies made available to that party by statute or rules and regulations, may be brought in the Superior Court of Wake County at any time after a final decision by the Department. Such action must be filed not later than 30 days after a written copy of the final decision by the

Department is given by personal service or registered or certified mail to the person seeking judicial review.

"§ 131E-192 through 131E-199: Reserved for future codification purposes."

Sec. 2. Section 4 of Chapter 1182, Session Laws of 1977 (Second Session 1978), as amended by Section 30 of Chapter 1127, Session Laws of 1981, and as amended by Section 1(a) of Chapter 1242, Session Laws of 1981 (Regular Session, 1982), is not repealed and is hereby reenacted to apply to Article 9 of Chapter 131E of the General Statutes as of the effective date of this act. Section 1(b) of Chapter 1242, Session Laws of 1981 (Regular Session, 1982) is not repealed and is hereby reenacted to apply to Article 9 of Chapter 131E of the General Statutes as of the effective date of this act.

Sec. 3. Notwithstanding the foregoing, any unit of government, or units of government acting jointly, that as of December 31, 1983, is operating a hospital or hospitals pursuant to Articles 2 or 2A of Chapter 131 of the General Statutes may continue to operate pursuant to the provisions of those Articles as they existed on December 31, 1983, to the extent that those Articles are inconsistent with this Chapter. However, a unit of government that has been operating a hospital pursuant to those Articles may choose to continue operations under the provisions of one of the Parts of Article 2 of this Chapter by adopting an appropriate resolution and by satisfying all other requirements of the relevant Part of Article 2 of this Chapter.

Sec. 4. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 5. Sections 3(a), 9(e), 9.5, 9.7, 170.1, 170.2, 230, 232 through 235, and 264 through 277 of Chapter 130 of the General Statutes, all of Chapter 131 except for Article 12, and Chapter 131B of the General Statutes shall remain in full force and effect from the date of ratification of this act until December 31, 1983. This act shall not affect any litigation pending under any of those provisions on or before December 31, 1983.

Sec. 6. Chapter 143 of the 1983 Session Laws and all other Chapters of the 1983 Session Laws amending Chapters 131 or 131B of the General Statutes or Sections 3(a), 9(e), 9.5, 9.7, 170.1, 170.2, 230, 232 through 235, and 264 through 277 of Chapter 130 of the General Statutes are not repealed by this act but are hereby reenacted and shall be inserted in the appropriate place in Chapter 131E of the General Statutes by the codifier of statutes.

Sec. 7. This act shall become effective January 1, 1984, except that Part B of Article 2 of Chapter 131E of the General Statutes is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 596 CHAPTER 776

AN ACT AUTHORIZING AN INJURED PARTY TO TESTIFY AS TO MEDICAL CHARGES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 8 of the General Statutes is amended by adding a new section to read:

"§ 8-58.1. *Injured party as witness when medical charges at issue.*—Whenever an issue of hospital, medical, dental, pharmaceutical, or funeral charges arises in any civil proceeding, the injured party or his guardian, administrator, or executor is competent to give evidence regarding the amount of such charges, provided that records or copies of such charges accompany such testimony. The testimony of such a person establishes a rebuttable presumption of the reasonableness of the amount of the charges."

Sec. 2. This act shall become effective October 1, 1983, and shall apply to all civil trials commencing on or after that date.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. B. 60 CHAPTER 777

AN ACT TO CLARIFY THE LAW CONCERNING UNDERINSURED MOTORIST COVERAGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-279.21(b)(4) is rewritten to read:

"(4) Shall, in addition to the coverages set forth in subdivisions (2) and (3) of this subsection, provide underinsured motorist coverage, to be used only with policies that are written at limits that exceed those prescribed by subdivision (2) of this section and that afford uninsured motorist coverage as provided by subdivision (3) of this subsection, but not to exceed the policy limits for automobile bodily injury liability as specified in the owner's policy. An 'uninsured motor vehicle,' as described in subdivision (3) of this subsection, includes an 'underinsured highway vehicle,' which means a highway vehicle with respect to the ownership, maintenance, or use of which, the sum of the limits of liability under all bodily injury liability bonds and insurance policies applicable at the time of the accident is less than the applicable limits of liability under the owner's policy. For the purposes of this subdivision, the term 'highway vehicle' means a land motor vehicle or trailer other than (i) a farm-type tractor or other vehicle designed for use principally off public roads and while not upon public roads, (ii) a vehicle operated on rails or crawler-treads, or (iii) a vehicle while located for use as a residence or premises. The provisions of subdivision (3) of this subsection shall apply to the coverage required by this subdivision. The insurer shall not be obligated to make any payment because of bodily injury to which underinsured motorist insurance coverage applies and that arises out of the ownership, maintenance, or use of an underinsured highway vehicle until after the limits of liability under all bodily injury liability bonds or insurance policies applicable at the time of the accident have been exhausted by payment of judgments or settlements, and provided the limit of payment is only the difference between the limits of the liability insurance that is applicable and the limits of the underinsured motorist coverage as

specified in the owner's policy. The coverage required under this subdivision shall not be applicable where any insured named in the policy rejects the coverage."

Sec. 2. G.S. 20-279.21(b)(3) is amended in line 34 by substituting the word "subdivision" for the word "section".

Sec. 3. This act shall apply only to motor vehicle liability insurance policies that are issued or renewed on and after the effective date of this act.

Sec. 4. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 265 CHAPTER 778

AN ACT TO ESTABLISH THE NORTH CAROLINA HOUSING COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 147 of the General Statutes is amended by adding the following new Article:

"Article 3B.

"North Carolina Housing Commission.

"§ 147-33.10. *Commission established.*—There is established within the Office of the Governor the North Carolina Housing Commission.

"§ 147-33.11. *Membership.*—The North Carolina Housing Commission shall consist of 15 members as follows:

(1) Five shall be appointed by the Governor;

(2) Three shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121;

(3) Three shall be appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121;

(4) The Secretary of Natural Resources and Community Development or a deputy secretary of the department designated by him shall serve ex officio;

(5) The Secretary of Commerce or a deputy secretary of the department designated by him shall serve ex officio;

(6) The State Treasurer or a deputy State treasurer designated by him shall serve ex officio;

(7) The Chairman of the Board of Directors of the Housing Finance Agency or the executive director of the agency, if designated by him, shall serve ex officio.

"§ 147-33.12. *Terms.*—Of the five persons appointed under G.S. 147-33.11(1), two shall serve terms to expire June 30, 1985, and three shall serve terms to expire June 30, 1986. Of the three persons appointed under G.S. 147-33.11(2), one shall serve a term to expire June 30, 1985, and two shall serve terms to expire June 30, 1986. Of the three persons appointed under G.S. 147-33.11(3), one shall serve a term to expire June 30, 1985, and two shall serve terms to expire June 30, 1986. Subsequent terms shall be for three years.

"§ 147-33.13. *Vacancies.*—Vacancies in appointments by the Governor shall be filled by the Governor for the remainder of the unexpired term. Vacancies in

appointments by the General Assembly shall be filled in accordance with G.S. 120-122.

"§ 147-33.14. *Expenses.*—Members of the Commission shall receive per diem and necessary travel expenses in accordance with G.S. 138-5, except that persons in categories G.S. 147-33.11(4) through (6) shall be reimbursed in accordance with G.S. 138-6, and persons under G.S. 147-33.11(7) shall be reimbursed under G.S. 138-5 or G.S. 138-6, as appropriate.

"§ 147-33.15. *Officers.*—The Governor shall choose a chairman from among the membership of the Commission, but no ex officio member of the Commission may serve as chairman. The Commission shall elect from its membership a vice-chairman and shall elect a secretary.

"§ 147-33.16. *Quorum; voting.*—(a) Eight members of the Commission shall constitute a quorum.

(b) All members of the Commission have the right to vote on all issues before the Commission.

"§ 147-33.17. *Meetings.*—The initial meeting of the Commission shall be called by the chairman. Subsequent meetings shall be held upon the call of the chairman or upon the written request of five members.

"§ 147-33.18. *Staff.*—The Commission shall be administratively located in the Office of the Governor which shall provide necessary clerical equipment and administrative services to the Commission, provided the Commission shall be consulted with regard to hiring and discharging its own staff.

"§ 147-33.19. *Powers and duties.*—The Commission shall have the following powers and duties:

(1) To oversee and update State housing policy, and develop and implement a State housing action plan.

(2) To encourage communication, cooperation and consultation between State agencies in housing policy, and be available to mediate such conflict between State agencies.

(3) To foster allocation of resources by State agencies with housing responsibilities that are consistent with the State housing policy and action plan.

(4) To obtain necessary information from other State agencies concerning housing.

(5) To submit to the Governor and the General Assembly a biennial report on the state of housing in North Carolina.

(6) To promote cost efficiency and lower construction costs in housing while retaining quality construction.

(7) To propose and review legislation relating to housing.

(8) To adopt necessary rules and regulations to implement this Article."

Sec. 2. G.S. 120-123 is amended by adding a new subdivision to read:

"(34a) The North Carolina Housing Commission as established by G.S. 147-33.10."

Sec. 3. The expenses of the Commission shall be paid from nontax revenues in the Housing Finance Agency.

Sec. 4. This act shall become effective July 1, 1983, except that appointments may be made at any time after ratification of this act.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 683 **CHAPTER 779**

AN ACT TO REWRITE G.S. 20-217 PERTAINING TO PASSING STOPPED SCHOOL BUSES AND RECEIVING OR DISCHARGING PASSENGERS FROM SCHOOL BUSES STOPPED ON DIVIDED ROADWAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-217 is rewritten to read:

"§ 20-217. *Motor vehicles to stop for properly marked and designated school buses in certain instances; evidence of identity of driver.*—(a) The driver of any vehicle upon approaching from any direction on the same street or highway any school bus (including privately owned buses transporting children and school buses transporting senior citizens under G.S. 115C-243), while the bus is displaying its mechanical stop signal, and is stopped for the purpose of receiving or discharging passengers, shall bring his vehicle to a full stop before passing or attempting to pass the bus, and shall remain stopped until the mechanical stop signal has been withdrawn or until the bus has moved on.

(b) The provisions of this section are applicable only in the event the school bus bears upon the front and rear a plainly visible sign containing the words 'school bus' in letters not less than eight inches in height.

(c) Notwithstanding the provisions of subsection (a) of this section, the driver of a vehicle traveling in the opposite direction from the school bus, upon any road, highway or city street which has been dividided into two roadways, so constructed as to separate vehicular traffic between the two roadways by an intervening space (including a center lane for left turns if the roadway consists of at least four more lanes) or by a physical barrier, need not stop upon meeting and passing any school bus which has stopped in the roadway across such dividing space or physical barrier.

(d) It shall be unlawful for any school bus driver to stop and receive or discharge passengers or for any principal or superintendent of any school, routing a school bus, to authorize the driver of any school bus to stop and receive or discharge passengers upon any roadway described by subsection (c) of this section where passengers would be required to cross the roadway to reach their destination or to board the bus; provided, that passengers may be discharged or received at points where pedestrians and vehicular traffic are controlled by adequate stop-and-go traffic signals.

(e) Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not to exceed two hundred dollars ($200.00), or imprisoned not to exceed 90 days, or both."

(f) Proof that a motor vehicle has passed a stopped school bus in violation of subsection (a) of this section is *prima facie* evidence that the motor vehicle was operated at the time of the violation by the registered owner of the vehicle.

Sec. 2. G.S. 20-217.1 is repealed.

Sec. 3. This act shall become effective October 1, 1983 and expire October 1, 1985. G.S. 20-217 amended hereby shall not be effective on and after said date.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1253 CHAPTER 780

AN ACT DEFINING LEGISLATIVE BRIBERY AND CONSOLIDATING THE STATUTES RELATING THERETO.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-219 is repealed.

Sec. 2. G.S. 120-86 is amended by designating the present language as subsection (a) and adding the following new subsections:

"(b) It shall be unlawful for the partner, client, customer, or employer of a legislator or the agent of that partner, client, customer, or employer to threaten economically, directly or indirectly, that legislator with the intent to influence the legislator in the discharge of his legislative duties.

(c) It shall be unethical for a legislator to contact the partner, client, customer, or employer of another legislator if the purpose of the contact is to cause the partner, client, customer, or employer to threaten economically, directly or indirectly, that legislator with the intent to influence that legislator in the discharge of his legislative duties.

(d) For the purposes of this section, the term 'legislator' also includes any person who has been elected or appointed to the General Assembly but who has not yet taken the oath of office.

(e) Violation of subsection (a) or (b) is a Class I felony. Violation of subsection (c) is not a crime but is punishable under G.S. 120-103."

Sec. 3. Prosecutions for offenses occurring before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1380 CHAPTER 781

AN ACT TO RECOGNIZE THAT THE SUN HAS SET AND NIGHT SHOULD FALL ON THE LAW ENFORCEMENT OFFICERS' MINIMUM SALARY ACT.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 114 of the General Statutes is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1382 CHAPTER 782

AN ACT TO PERMIT EMPLOYEES OF THE STATE EMPLOYEES' CREDIT UNION THE OPTION OF TERMINATING MEMBERSHIP IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-27 is amended by the addition of a new subsection at the end designated as "(e)" to read:

"(e) Notwithstanding the foregoing, employees of the State Employees' Credit Union who are in service and members of the Retirement System on June 30, 1983, shall, on or before October 1, 1983, make an irrevocable election to do one of the following:

(1) Continue contributing membership service under the same conditions and requirements as are otherwise provided, and have the rights of a member to all benefits and a retirement allowance; or

(2) Receive a return of accumulated contributions with cessation of contributing membership service, under G.S. 135-5(f) and in any event with regular interest regardless of membership service; or

(3) Terminate contributing membership service and be entitled alternatively to the benefits and allowances provided under G.S. 135-3(8) or G.S. 135-5(a)."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

S. B. 223 CHAPTER 783

AN ACT TO PROVIDE ENABLING LEGISLATION FOR THE CONSOLIDATION AND MERGER OF THE EDEN CITY SCHOOLS ADMINISTRATIVE UNIT, THE MADISON-MAYODAN ADMINISTRATIVE UNIT, THE REIDSVILLE CITY ADMINISTRATIVE UNIT AND THE ROCKINGHAM COUNTY SCHOOLS ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to provide enabling legislation for the consolidation and merger in accordance with provision of, and procedures contained in, Chapter 115C-67 of the General Statutes, of the four administrative school units in Rockingham County into one administrative school unit.

Sec. 2. The four Boards of Education of the present administrative school units in Rockingham County, namely, the Eden City Board of Education, the Madison-Mayodan City Board of Education, the Reidsville City Board of Education and the Rockingham County Board of Education are hereby authorized and directed to develop in accordance with the provisions of Chapter 115C-67 of the General Statutes a written plan of merger whereby the four present administrative school units in Rockingham County shall be consolidated and merged into one administrative school unit. This plan of merger shall be approved by each of the present four Boards of Education and shall thereupon be submitted on or before July 1, 1984, to the Board of County

Commissioners of Rockingham County for its concurrence and approval as specified in Chapter 115C-67 of the General Statutes. Upon such concurrence and approval, the plan of merger shall then be submitted to the State Board of Education for its approval as specified in Chapter 115C-67 of the General Statutes.

Sec. 3. In the event the present four Boards of Education have not submitted such plan of merger to the Board of County Commissioners of Rockingham County on or before July 1, 1984, said Board of County Commissioners shall cause to be held in Rockingham County at the general election in November of 1984, a referendum on the issue whether the Eden City Schools Administrative Unit, the Madison-Mayodan City Schools Administrative Unit, the Reidsville City Schools Administrative Unit, and the Rockingham County School Administrative Unit shall be consolidated and merged into a single County Administrative Unit. In the event a majority of the votes cast in said referendum shall favor the consolidation and merger of said four administrative school units into a single county administrative unit, additional enabling legislation for such consolidation and merger shall be presented to the General Assembly of North Carolina for its consideration and enactment. In the event the said four boards of education have submitted such plan or merger to the Board of County Commissioners of Rockingham County on or before July 1, 1984, this Section 3 shall be null, void, and of no effect.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

S. B. 333 CHAPTER 784

AN ACT TO REDUCE THE YEARS A JUDGE MUST HAVE SERVED BEFORE RETIREMENT TO QUALIFY AS AN EMERGENCY JUDGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-39.3(a) and G.S. 7A-52(a) are amended in the first sentence of each subsection by deleting the number "15" and substituting the number "12".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 206 CHAPTER 785

AN ACT TO SIMPLIFY THE LISTING OF REAL AND PERSONAL PROPERTY IN TIME-SHARING ARRANGEMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-302(c) is amended by adding a new subdivision (13) to read as follows:

"(13) Real property, owned under a time-sharing arrangement but managed by a homeowners association or other managing entity, shall be listed in the name of the managing entity."

Sec. 2. G.S. 105-306(c) is amended by adding a new subdivision (9) to read as follows:

"(9) Personal property, owned under a time-sharing arrangement but managed by a homeowners association or other managing entity, shall be listed in the name of the managing entity."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 709 CHAPTER 786

AN ACT TO ESTABLISH THE ALARM SYSTEMS LICENSING ACT.

The General Assembly of North Carolina enacts:

Section 1. There is added to the General Statutes a new Chapter to read:

"Chapter 74D.

"Alarm Systems Licensing Act.

"§ 74D-1. *Title.*—This act may be cited as the Alarm Systems Licensing Act.

"§ 74D-2. *Licenses required.*—(a) No person, firm, association or corporation shall engage in an alarm systems business without first being licensed in accordance with this act. For purposes of this Chapter an 'alarm systems business' is defined as any person, firm, association or corporation which installs, services, monitors or responds to electrical, electronic or mechanical alarm signal devices, burglar alarms, television cameras or still cameras used to detect burglary, breaking or entering, intrusion, shoplifting, pilferage, or theft, for a fee or other valuable consideration.

(b) Any person in possession of a valid Alarm Systems Business License issued under Chapter 74C of the General Statutes before the enactment of this Chapter shall be issued an appropriate substitute license under this Chapter.

(c) A business entity other than a sole proprietorship shall not do business under this Chapter unless the business entity has in its employ a designated qualifying agent who meets the requirements for a license issued under this Chapter and who is in fact licensed under the provisions of this Chapter. For the purposes of this Chapter, a qualifying agent means an individual in a management position who is licensed under this Chapter and whose name and address have been registered with the board. In the event that the qualifying agent upon whom the business entity relies in order to do business ceases to perform his duties as qualifying agent, the business entity shall notify the board within 10 working days. The business entity must obtain a substitute qualifying agent within 30 days after the original qualifying agent ceases to serve as qualifying agent unless the board, in its discretion, extends this period for good cause for a period of time not to exceed three months. The license certificate shall list the name of at least one designated qualifying agent.

(d) Upon receipt of an application, the board shall cause a background investigation to be made during which the applicant shall be required to show that he meets all the following requirements and qualifications prerequisite to obtaining a license:

(1) that the applicant is at least 18 years of age;

(2) that the applicant is of good moral character and temperate habits. The following shall be *prima facie* evidence that the applicant does not have

good moral character or temperate habits: conviction by any local, State, federal, or military court of any crime involving the illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution or transportation of a controlled substance, drug, narcotic, or alcoholic beverages; conviction of a crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking or entering, burglary, larceny, or of any offense involving moral turpitude; or a history of addiction to alcohol or a narcotic drug; provided that, for purposes of this subsection, 'conviction' means and includes the entry of a plea of guilty or a verdict rendered in open court by a judge or jury;

(3) that the applicant has the necessary training, qualifications and experience to be licensed.

(e) The board may require the applicant to demonstrate his qualifications by oral or written examination, or both.

"§ 74D-3. *Exemptions.*—The provisions of this Chapter shall not apply to:

(1) a person or business which sells or manufactures alarm systems, unless such person or business installs, services or responds to alarm systems and thereby obtains knowledge of specific applications;

(2) installation, servicing or responding to fire alarm systems or any alarm device which is installed in a motor vehicle, aircraft or boat;

(3) installation of an alarm system on property owned by or leased to the installer; and

(4) an alarm monitoring company located in another state which does not conduct any business through a personal representative present in this State but which solicits and conducts business solely through interstate communication facilities such as telephone messages, earth satellite relay stations and the United States postal service.

"§ 74D-4. *Alarm Systems Licensing Board established; members; terms; vacancies; compensation; officers; meetings.*—(a) The Alarm Systems Licensing Board is hereby established.

(b) The board shall consist of five members: the Attorney General or his designee; one person appointed by the Governor who shall be licensed under this Chapter; one person appointed by the Governor who shall be a public member; one person appointed by the General Assembly upon the recommendation of the Lieutenant Governor under G.S. 120-121 who shall be licensed under this Chapter; and one person appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives under G.S. 120-121 who shall be a public member.

(c) Each member shall be appointed for a term of three years and shall serve until a successor is installed. No member shall serve more than two complete consecutive terms. The initial appointments shall be made by October 1, 1983. By October 1, 1986, the General Assembly shall appoint upon the recommendation of the Speaker of the House of Representatives under G.S. 120-121 a successor to its licensed appointment who also shall be licensed under this Chapter and shall appoint upon the recommendation of the Lieutenant Governor under G.S. 120-121 a successor to its public appointment who also shall be a public member. Every three years thereafter the recommendation of the Lieutenant Governor and of the Speaker of the House of Representatives

with respect to the licensed and public status of the persons they recommend shall continue likewise to alternate.

(d) A vacancy on the board shall be filled for the unexpired term by the original appointing authority. Vacancies in legislative appointments shall be filled under G.S. 120-122. A vacancy may be created by removal of a board member, either at the pleasure of the original appointing authority or by the remaining members of the board for misconduct, incompetence or neglect of duty. A board member may only be removed by remaining board members pursuant to a hearing at which the member subject to removal has an opportunity to be heard.

(e) Compensation, per diem and reimbursement for board members shall be as provided in G.S. 93B-5, except that board members who are also State or full-time salaried public officers or employees shall only receive the travel allowances set forth in G.S. 138-6.

(f) The board shall have a chairman, who shall be appointed by the Governor and shall serve at his pleasure.

(g) The board shall meet at the call of the chairman or a majority of the members of the board. The board shall adopt rules governing the call and conduct of its meetings. A majority of the current board membership constitutes a quorum.

"§ 74D-5. *Powers of the board.*—(a) In addition to the powers conferred upon the board elsewhere in this Chapter, the board shall have the power to:

(1) promulgate rules necessary to carry out and administer the provisions of this Chapter including the authority to require the submission of reports and information by licensees under this Chapter;

(2) determine minimum qualifications and establish minimum education, experience, and training standards for applicants and licensees under this Chapter;

(3) conduct investigations regarding alleged violations and make evaluations as may be necessary to determine if licensees and registrants under this Chapter are complying with the provisions of this Chapter;

(4) adopt and amend bylaws, consistent with law, for its internal management and control;

(5) investigate and approve individual applicants to be licensed or registered according to this Chapter;

(6) deny, suspend, or revoke any license issued or to be issued under this Chapter to any applicant or licensee who fails to satisfy the requirements of this Chapter or the rules established by the board. The denial, suspension, or revocation of such license shall be in accordance with Chapter 150A of the General Statutes of North Carolina;

(7) issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The district court shall have the power to impose punishment pursuant to G.S. 5A-21 *et seq.* for acts occurring in matters pending before the board which would constitute civil contempt if the acts occurred in an action pending in court.

(b) The chairman of the board or his representative designated to be a hearing officer may conduct any hearing called by the board for the purpose of denial, suspension, or revocation of a license or registration under this Chapter.

"§ 74D-6. *Denial of a license.*—Upon a finding that the applicant meets the requirements of G.S. 74D-2(d) and (e), the board shall determine whether the applicant shall receive a license. The grounds for denial of a license include:

(1) commission of some act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under this Chapter;

(2) conviction of a crime involving fraud;

(3) lack of good moral character or temperate habits. The following shall be *prima facie* evidence that the applicant does not have good moral character or temperate habits: conviction by any local, State, federal, or military court of any crime involving the illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverages; conviction of a crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking or entering, burglary or larceny or of any offense involving moral turpitude; or a history of addiction to alcohol or a narcotic drug; provided that, for purposes of this subsection 'conviction' means and includes the entry of a plea of guilty or a verdict rendered in open court by a judge or jury;

(4) previous denial of a license under this Chapter or previous revocation of a license for cause;

(5) knowingly making any false statement or misrepresentation in the license application.

"§ 74D-7. *Form of license; term; assignability; renewal; posting; branch offices; fees.*—(a) The license when issued shall be in such form as may be determined by the board and shall state:

(1) the name of the licensee;

(2) the name under which the licensee is to operate; and

(3) the number and expiration date of the license.

(b) The license shall be issued for a term of one year. Each license must be renewed before expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the principal place of business of the licensee. A license issued under this Chapter is not assignable.

(c) No licensee shall engage in any business regulated by this Chapter under a name other than the licensee name which appears on the certificate issued by the board or the name of a business entity which the licensee has registered with the board.

(d) Any branch office of an alarm systems business shall be properly licensed. A separate license, stating the location and licensed qualifying agent, shall be posted at all times in a conspicuous place in each branch office. Every business covered under the provisions of this Chapter shall file in writing with the board the addresses of each of its branch offices, if any, within 10 working days after the establishment, closing, or changing of the location of any branch office. A licensed qualifying agent may be responsible for more than one office, in the discretion of the board.

(e) The board is authorized to charge reasonable application and license fees as follows:

(1) a nonrefundable initial application fee in an amount not to exceed seventy-five dollars ($75.00);

(2) a new or renewal license fee in an amount not to exceed one hundred fifty dollars ($150.00);

(3) a late renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars ($100.00), if the license has not been renewed on or before the expiration date of the license.

(4) a registration fee in an amount not to exceed fifteen dollars ($15.00) plus any fees charged to the board for background checks by the State Bureau of Investigation;

(5) a fee for reregistration of an employee who changes employment to another licensee, not to exceed ten dollars ($10.00).

All fees collected pursuant to this section shall be expended, under the direction of the board, for the purpose of defraying the expense of administering this Chapter.

"§ 74D-8. *Registration of persons employed; temporary employment.*—(a) All licensees, upon or before the beginning of employment of an employee, shall furnish the board with the following: two sets of classifiable fingerprints on standard F.B.I. applicant cards; two recent photographs of acceptable quality for identification; and statements of any criminal records obtained from county sheriff, chief of police, or clerk of superior court in each county in North Carolina where the employee has resided within the immediately preceding 24 months.

(b) The board shall be notified in writing of the termination of any employee registered under this Chapter within 10 days after the termination.

(c) The board shall issue an identification card to each employee of a licensee who is registered under this Chapter. The registration card shall expire one year after its date of issuance and shall be renewed before the expiration of the term of the registration. If a registered person changes employment to another licensee, the registration card may remain valid; however, persons changing employment must pay the fee authorized by G.S. 74D-7(e)(5).

"§ 74D-9. *Bond and certificate of liability insurance required; form and approval; action on bonds; suspension for noncompliance.*—(a) No licensee or applicant for a license shall be licensed under this Chapter unless the licensee or applicant for a license files with the board and maintains a surety bond executed by a surety company authorized to do business in this State in a sum of not less than five thousand dollars ($5,000) or a cash bond, in lieu of the surety bond in a sum of not less than five thousand dollars ($5,000), to protect the public from the wrongful or illegal acts of the bond principal or his agents operating in the course and scope of his or her agency.

(b) The bond shall be taken in the name of the people of the State of North Carolina. Every person injured by wrongful or illegal acts of the principal or his agents operating in the course and the scope of his or her agency may bring an action on the bond in his or her name to recover damages suffered by reason of such wrongful act. Provided, however, the aggregate liability of the surety for all breaches of the condition of bond shall, in no event, exceed the sum of said bond.

(c) The surety on the bond shall have a right to cancel such bond upon giving a 30-day notice to the board. Provided, however, that such cancellation shall not affect any liability on the bond which accrued prior thereto. The bond shall be approved by the board as to form, execution, and sufficiency of the sureties thereon.

(d) No license shall be issued under this act unless the applicant files with the board evidence of a policy of liability insurance which policy must provide for the following minimum coverage: fifty thousand dollars ($50,000) because of bodily injury or death of one person as a result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his employment; subject to said limit for one person, one hundred thousand dollars ($100,000) because of bodily injury or death of two or more persons as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency; twenty thousand dollars ($20,000) because of injury to or destruction of property of others as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency.

(e) An insurance carrier shall have the right to cancel such policy of liability insurance upon giving a 30-day notice to the board. Provided, however, that such cancellation shall not affect any liability on the policy which accrued prior thereto. The policy of liability shall be approved by the board as to form, execution, and terms thereon.

(f) Every licensee shall at all times maintain on file with the board the surety bond and certificate of insurance required by this Chapter in full force and effect and upon failure to do so, the license of such licensee shall be automatically suspended and shall not be reinstated until an application therefor, in the form prescribed by the board, is filed together with a proper bond, insurance certificate, or both.

"§ 74D-10. *Suspension or revocation of licenses; appeal.*—(a) The board may, after notice and an opportunity for hearing, suspend or revoke a license issued under this Chapter if it is determined that the licensee has:

(1) made any false statement or given any false information in connection with any application for a license or for the renewal or reinstatement of a license;

(2) violated any provision of this Chapter;

(3) violated any rule promulgated by the board pursuant to the authority contained in this Chapter;

(4) been convicted of any crime involving moral turpitude or any other crime involving violence or the illegal use, carrying, or possession of a dangerous weapon;

(5) failed to correct business practices or procedures that have resulted in prior reprimands by the board;

(6) impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, or any of its political subdivisions;

(7) engaged in or permitted any employee to engage in an alarm systems business when not lawfully in possession of a valid license issued under the provisions of this Chapter;

(8) committed an unlawful breaking or entering, assault, battery, or kidnapping;

(9) committed any other act which is a ground for the denial of an application for a license under this Chapter;

(10) failure to maintain the cash bond, surety bond, or certificate of liability insurance required by this Chapter;

(11) any judgment of incompetency by a court having jurisdiction under Chapter 35 of the General Statutes or commitment to a mental health facility for treatment of mental illness, as defined in G.S. 122-36(d), by a court having jurisdiction under Article 5A of Chapter 122 of the General Statutes.

(b) The revocation or suspension of a license by the board as provided in subsection (a) shall be in writing, stating the grounds upon which the board decision is based. The aggrieved person shall have the right to appeal from such decision as provided in Chapter 150A of the General Statutes.

"§ 74D-11. *Enforcement.*—(a) The board is authorized to apply in its own name to any judge of the Superior Court of the General Court of Justice for an injunction in order to prevent any violation or threatened violation of the provisions of this Chapter.

(b) Any person, firm, association, or corporation or their agents and employees violating any of the provisions of this Chapter or knowingly violating any rule promulgated to implement this Chapter shall be guilty of a misdemeanor and punishable by a fine of up to five hundred dollars ($500.00), by imprisonment for a term not to exceed one year, or by both, in the discretion of the court. The Attorney General, or his representative, shall have concurrent jurisdiction with the district attorneys of this State to prosecute violations of this Chapter.

(c) The regulation of alarm systems businesses shall be exclusive to the board; however, any city or county shall be permitted to require an alarm systems business operating within its jurisdiction to register and to supply information regarding its license, and may adopt an ordinance to require users of alarm systems to obtain revocable permits when alarm usage involves automatic signal transmission to a law enforcement agency.

"§ 74D-12. *Severability.*—If any provision of this Chapter or the application thereof to any person or circumstance is for any reason held invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.

"§ 74D-13. *Transfer of funds.*—All fees collected pursuant to Chapter 74C of the General Statutes from alarm systems businesses which have not been expended upon the effective date of this act shall be transferred to the board by the Private Protective Services Board for the purpose of defraying the expenses of administering this act."

Sec. 2. G.S. 74C-3(a)(2) is repealed.

Sec. 3. G.S. 74C-3(b) is amended by adding a new subdivision (9) which reads as follows:

"(9) A person engaged in an alarm systems business subject to the provisions of Chapter 74D of the General Statutes of North Carolina."

Sec. 4. When the Alarm Systems Licensing Board is established and members are appointed as provided by G.S. 74D-4, the secretary or an agent of the board shall request all records in the possession of the Private Protective Services Board pertaining to persons licensed and registered by the Private Protective Services Board in the alarm systems business, and the Administrator of said board shall deliver such records to the secretary or agent. This section shall not apply to records and evidence collected and compiled by the Director of the State Bureau of Investigation and his assistants.

Sec. 5. All persons licensed as alarm systems business licensees and persons registered under such licensees pursuant to the provisions of Chapter 74C of the General Statutes of North Carolina shall have such licensure and registration transferred from the Private Protective Services Board to the Alarm Systems Licensing Board as of the effective date of this act. Such licenses and registrations shall remain in effect until the expiration date appearing on the face of the license or registration. All new and renewal licenses and registrations shall be subject to the provisions of this act on the effective date of this act.

Sec. 6. Any bond in effect on the effective date of this act held by a licensee pursuant to G.S. 74C-10 shall remain in effect to satisfy the bonding requirement established by G.S. 74D-9.

Sec. 7. Any policy of liability insurance in effect on the effective date of this act held by a licensee pursuant to G.S. 74C-10 shall remain in effect to satisfy the filing of evidence of a policy of liability insurance requirement established by G.S. 74D-9.

Sec. 8. The administration and operation of the board shall be the responsibility of the Department of Justice, which may allocate funds from income created by alarm systems business licensing to carry out the requirements of this act until the board becomes financially self-sustaining. All prior fees paid by licensees shall be credited to fees due under this act, prorated on a quarter-year basis.

Sec. 9. G.S. 120-123 is amended by adding a new subdivision to read:

"The Alarm System Licensing Board, as established by G.S. 74D-4".

Sec. 10. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 724 CHAPTER 787

AN ACT TO LIMIT MOTORBOAT NOISE ON VARIOUS LAKES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 75A of the General Statutes is amended by adding a new section to read:

"§ 75A-9.2. *Noise limits; motorboats.*—(a) No motor shall be used on any motorboat unless it is equipped with an efficient muffler, underwater exhaust or other device which at all times adequately muffles or suppresses the sound of the exhaust of the motor so as to prevent excessive or unusual noise, and no motor shall be equipped with any cutout.

(b) It is not the intent of this section to prohibit the use of any type exhaust system or device, including those systems and devices that do not discharge water with the exhaust gases, if such system or device complies with subsection (c) of this section.

(c) No person shall operate a motorboat at any time or under any condition of load, acceleration or deceleration in such a manner as to exceed a noise level of 86 decibels on the 'A' scale measured at a distance of 50 feet from the motorboat or equivalent noise levels at other distances. A sound level meter shall be used which meets the requirements for Type 1, Type 2, Type S1A, or Type S2A of American National Standards Institute S1.4-1971 (ANSI S1.4-1971). The

operator of such a vessel may be ordered off the water upon failure to submit to sound level testing procedures.

(d) Nothing in this section shall be construed to require the use of a noise meter or other equipment in prosecutions for violations of this section.

(e) The provisions of this section shall not apply to motorboats competing under a United States Coast Guard or North Carolina Wildlife Resources Commission permit in a regatta, in a boat race, while on trial runs, or while on official trials for speed records during the time and in the designated area authorized by the permit.

(f) No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof.

(g) Anyone violating this section shall be guilty of a misdemeanor and shall be subject to a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00). Anyone convicted for a second or subsequent violation shall be fined the maximum fine of five hundred dollars ($500.00) per violation. Any law enforcement officer having the power of arrest on any of the waters covered by this act shall enforce its provisions.

(h) Any motorboat motor manufactured and offered for sale in this State may be certified to the North Carolina Wildlife Resources Commission as having been tested and found not to exceed the noise limits prescribed in (c). An outboard motor may be certified by the motor manufacturer; provided, however that any motor may be certified by the motorboat manufacturer if it is offered for sale in combination with a motorboat."

Sec. 2. Section 1 of this act shall apply to the waters of Lake Wylie, Mountain Island Lake, and Lake Norman located within or adjoining the counties of Mecklenburg, Gaston, Iredell, Catawba and Lincoln.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 882 CHAPTER 788

AN ACT TO REPEAL CHAPTER 331 OF THE SESSION LAWS OF 1981 CONCERNING THE MECKLENBURG COUNTY ALCOHOLIC BEVERAGE CONTROL BOARD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 331 of the Session Laws of 1981 is hereby repealed.

Sec. 2. G.S. 18B-700(a) as the same appears in the 1981 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by deleting the word "three" as the same appears on line 1 of G.S. 18B-700(a), and substituting in its place the word "five".

Sec. 3. G.S. 18B-700(a) as the same appears in the 1981 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by deleting the second sentence thereof in its entirety as the same appears on lines 6, 7 and 8 of G.S. 18B-700(a) and substituting in its place a sentence to read as follows: "One member of the initial board of a newly created ABC system shall be appointed for a three-year term, two members for a two-year term, and two members for a one-year term, all terms beginning with the date of initial appointment."

Sec. 4. This act shall apply to Mecklenburg County only.

Sec. 5. All laws and clauses of laws in conflict with the provisions of this act are repealed to the extent of such conflict.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 910 CHAPTER 789

AN ACT CREATING THE NORTH CAROLINA AGRICULTURAL FACILITIES FINANCE AGENCY AND AUTHORIZING SAID AGENCY TO FINANCE THE CONSTRUCTION, ACQUISITION AND DEVELOPMENT OF AGRICULTURAL FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is added to the General Statutes to read:

"Chapter 122B.

"North Carolina Agricultural Facilities Finance Act.

"§ 122B-1. *Short title.*—This Chapter shall be known, and may be cited, as the 'Agricultural Facilities Finance Act'.

"§ 122B-2. *Legislative findings.*—It is hereby declared that for the benefit of the people of the State of North Carolina, the increase in their commerce, welfare and prosperity and the improvement of their health and living conditions it is essential that action be taken to finance the construction, acquisition and development of agricultural facilities; that it is essential for agricultural facilities within the State to be able to construct and renovate facilities in order to accomplish the purposes of this Chapter; and that it is the purpose of this Chapter to provide a measure of assistance to agricultural facilities to provide the necessary financing for such development to accomplish the purposes of this Chapter, all to the public benefit and good, to the extent and in the same manner provided herein.

"§ 122B-3. *Definitions.*—As used or referred to in this Chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) 'Agency' means the North Carolina Agricultural Facilities Finance Agency created by this Chapter, or, should said agency be abolished or otherwise divested of its functions under this Chapter, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this Chapter to the agency.

(2) 'Agricultural Facility' means:

a. All real property constituting farms; or

b. All real property of farmer-owned cooperatives used for the processing of agricultural products; or

c. All structures, fixtures, machinery, equipment and personal property attached or to be attached to such real property as set forth in a. or b. or used in connection therewith and all improvements or alterations thereon. In the case of farmer-owned cooperatives, such structures, fixtures, machinery, equipment, and personal property must be used for the processing of agricultural products.

(3) 'Bonds' or 'Notes' means the bonds or bond anticipation notes, respectively, authorized to be issued by the agency under this Chapter, including refunding bonds.

(4) 'Borrower' means any party to a loan agreement except the agency.

(5) 'Cost', as applied to any project or any portion thereof financed under the provisions of this Chapter, means all or any part of the cost of acquisition, construction, reconstruction, alteration, and enlargement of a project, including all lands, structures, fixtures, machinery or equipment, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for or in connection with a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest during construction, the cost of consulting and legal services, the cost of administrative and other expenses related or incident to the construction or acquisition of a project and the financing of the construction or acquisition thereof, including reasonable provision for working capital and a reserve for debt service.

(6) 'Lender' means any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association, life insurance company, mortgage banking company, the Federal government and any other financial institution authorized to transact business in the State and making project loans.

(7) 'Loan Agreement' means an agreement providing for the agency, or a lender with which the agency has contracted, to loan the proceeds from the issuance of bonds or notes pursuant to this Chapter to one or more borrowers to be used to pay the costs of an agricultural facility and providing for the repayment of such loan.

(8) 'Project' means real property and all buildings, structures, improvements, additions, alterations, extensions, enlargements thereto or other facilities for the use primarily as an agricultural facility and other structures or facilities related thereto or required, useful or convenient therefor, or any combination of the foregoing, and shall also include site preparation, landscaping, furniture, machinery, equipment, personal property and all other items necessary or convenient for the operation of an agricultural facility in the manner for which its use is intended.

(9) 'Project Loan' means the lending of proceeds from the issuance of bonds or notes pursuant to this Chapter by one or more lenders to one or more borrowers to be used to pay the costs of a project.

(10) 'State' means the State of North Carolina.

"§ 122B-4. *Agricultural Facilities Finance Agency.*—There is hereby created a body politic and corporate to be known as the 'North Carolina Agricultural Facilities Finance Agency' which shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions. All powers, rights and duties conferred by this Chapter or other provisions of law upon the agency shall be exercised by the board of directors of the agency, hereinafter referred to as the board.

"§ 122B-5. *Board of directors; membership; terms; chairman and vice-chairman; expenses; record of proceedings; quorum.*—(a) The board shall consist of the State Treasurer and the Commissioner of Agriculture, both of whom shall serve *ex officio* and five additional members, three of whom shall be

appointed by the Governor. The General Assembly upon the recommendation of the President of the Senate shall appoint one member and upon the recommendation of the Speaker of the House of Representatives shall appoint one additional member. The five additional members of the board shall be residents of the State, shall not hold other public office and shall be engaged in agriculture, agribusiness or agricultural financing. The five appointive members of the board shall be appointed for staggered terms, the two members appointed by the General Assembly being appointed initially for one year, and the Governor's appointees being appointed initially one for two years, one for three years and one for four years, as designated by the Governor, and each member of the board shall continue in office until his successor shall be duly appointed by the appropriate appointing authority and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. The members appointed by the Governor shall be appointed for four-year terms after the original appointments and the members appointed by the General Assembly shall be appointed for two-year terms after the original appointments. Any member of the board shall be eligible for reappointment. Each appointive member of the board may be removed by the appropriate appointing authority for misfeasance, malfeasance or neglect of duty after reasonable notice and a public hearing, unless the same are in writing expressly waived. Each appointive member of the board shall before entering upon his duties take an oath of office to administer the duties of his office faithfully and impartially and a record of such oath shall be filed in the office of the Secretary of State. The Governor shall designate from among the members of the board a chairman and a vice-chairman. The terms of the chairman and vice-chairman shall extend to the earlier of either two years or the date of expiration of their then current terms as members of the board. The board shall elect and appoint and prescribe the duties of a secretary-treasurer and such other officers as it shall deem necessary or advisable, which officers need not be members of the board.

(b) No part of the revenues or assets of the agency shall inure to the benefit of or be distributable to its members or officers or other private persons. The members of the board shall receive no compensation for their services but shall be entitled to receive, for attendance at meetings of the agency or any committee thereof and for other services for the agency, reimbursement for such actual expenses as may be incurred for travel and subsistence in the performance of official duties and such per diem as is allowed by law for members of other State boards, commissions and committees.

(c) The secretary-treasurer of the agency shall keep a record of the proceedings of the agency and shall be custodian of all books, documents and papers filed with the agency, the minute book or journal of the agency and its official seal. The secretary-treasurer shall have authority to cause copies to be made of all minutes and other records and documents of the agency and to give certificates under the official seal of the agency to the effect that such copies are true copies, and all persons dealing with the agency may rely upon such certificates.

(d) Four members of the board shall constitute a quorum and the affirmative vote of a majority of the members present at a meeting of the board duly called and held shall be necessary for any action taken by the board; provided, however, that the board may appoint an executive committee to act on behalf of

the board during the period between regular meetings of the board, and said committee shall have full power to act upon the vote of a majority of its members. No vacancy in the membership of the agency shall impair the rights of a quorum to exercise all the rights and to perform all the duties of the agency.

(e) The agency shall be contained within the Department of Agriculture as if it had been transferred to that department by a Type II transfer as defined in G.S. 143A-6(b).

"§ 122B-6. *General powers.*—The agency shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the power:

(1) To make and execute contracts, agreements and other instruments necessary or incidental to the exercise of its powers and duties under this Chapter;

(2) To participate with lenders in the making of project loans; provided, however, that such project loans shall be made only upon the determination by the agency that loans are not otherwise available from private lenders upon reasonably equivalent terms and conditions; provided further that no such project loan shall be made in an amount greater then five hundred thousand dollars ($500,000) with respect to any individual or two million dollars ($2,000,000) with respect to any farmer-owned cooperative; provided further that the total amount of indebtedness with regards to project loans to any individual in his individual capacity and as a member of a farmer-owned cooperative shall not exceed five hundred thousand dollars ($500,000) at any one time.

(3) To collect and pay reasonable fees and charges in connection with the making of, purchasing and servicing project loans, notes, bonds or other evidence of indebtedness;

(4) To acquire on a temporary basis real property, or an interest therein, in its own name, by purchase, transfer or foreclosure, where such acquisition is necessary or appropriate to protect any project loan in which the agency has an interest and to sell, transfer and convey any such property to a buyer and, in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to rent or lease such property pending such sale, transfer or conveyance;

(5) To purchase or participate in the purchase and enter into commitments by itself or with others for the purchase of project loans made by lenders to any borrower when the agency has given its approval prior to the initial making of the project loan; provided, however, that any such purchase shall be made only upon the determination by the agency that the project loans were, at the time initial agency approval was given, not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(6) To consent, whenever it deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any project loan, contract or agreement of any kind to which the agency is a party;

(7) To borrow money as herein provided to carry out and effectuate its corporate purposes and to issue in evidence thereof its bonds and notes;

(8) To include in any borrowing such amounts as may be deemed necessary by the agency to pay financing charges, interest on its bonds for a period not

exceeding two years from their date, consultant, advisory and legal fees and such other expenses as are necessary or incident to such borrowing;

(9) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effect its corporate purposes;

(10) To employ fiscal consultants, consulting engineers, architects, attorneys, feasibility consultants, appraisers and such other consultants and employees as may be required in the judgment of the agency and to fix and pay their compensation from funds available to the agency therefor;

(11) To conduct studies and surveys reflecting the need for projects and their location, financing and construction;

(12) To service or contract for the servicing of project loans;

(13) To apply for, accept, receive and agree to and comply with the terms and conditions governing grants, loans, advances, contributions, interest subsidies and other aid with respect to any project from federal and State agencies or instrumentalities;

(14) To sue and be sued in its own name, plead and be impleaded;

(15) To purchase or to participate in the purchase and enter into commitments by itself or together with others for the purchase of federally insured securities; provided, however, that the agency shall first determine that the proceeds of such securities shall be used for the purpose of making project loans, all as specified in regulations to be adopted by the agency;

(16) To charge and to apportion among borrowers its administrative costs and expenses incurred in the exercise of its powers and duties conferred by this Chapter;

(17) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(18) To adopt an official seal and alter the same at pleasure;

(19) To do all other things necessary or convenient to carry out the purposes of this Chapter; and

(20) To provide technical assistance to any county, city, town or other political subdivision or instrumentality of the State and to profit and nonprofit entities in the development or operation of agricultural facilities and the distribution of data and information concerning the development of agricultural facilities and agricultural employment in the State.

"§ 122B-7. *Criteria and requirements for project loans.*—Any project loan undertaken pursuant to this Chapter shall be in accordance with the following criteria and requirements:

(1) No project loan shall be made to any borrower which is not financially responsible and capable of fulfilling its obligations, including its obligations under a loan agreement to make loan repayments, to operate, repair and maintain at its own expense the project and to discharge such other responsibilities as may be imposed under the loan agreement; and

(2) No project loan shall be made unless the agency determines that loans are not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions.

"§ 122B-8. *Loans to lenders.*—The agency may make, and undertake commitments to make, from proceeds from the issuance of bonds or notes pursuant to this Chapter, loans to lenders under terms and conditions requiring

such loans to be used by such lenders to make project loans. Project loan commitments and project loans shall be originated through and serviced by a lender.

"§ 122B-9. *Requirements for lenders.*—Prior to the making of any loan authorized by Section 8 hereof, the agency shall require a lender to certify that:

(1) The proceeds received by the lender in accordance with Section 8 hereof shall be used by such lender within a reasonable period of time to make project loans;

(2) The project loan is, or will be, a prudent investment; and

(3) The borrower is financially responsible and capable of fulfilling its obligations under the project loan.

"§ 122B-10. *Optional requirements for lenders.*—Prior to the making of any loan authorized by Section 8 hereof, the agency may, but is not obligated to, require a lender to:

(1) Obtain any type of security the agency deems reasonable or necessary to secure the project loan; or

(2) Receive funds in connection with the project loan in such amount and subject to such conditions as the agency deems reasonable or necessary.

No project loan shall be made unless it is insured by a reputable insurer or guaranteed by a reputable guarantor or both.

"§ 122B-11. *Investment, purchase* or *assignment of project loans by agency.*—The agency may invest in, purchase or make commitments to invest in or purchase, and take assignments or make commitments to take assignments of project loans. The agency shall not invest in, purchase or make commitments to invest in or purchse or take assignments or make commitments to take assignments of project loans unless the agency determines that loans were, at the time approval was given, not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

"§ 122B-12. *Rules and regulations.*—The agency shall promulgate rules and regulations governing its activities authorized under this Chapter, including but not limited to rules and regulations relating to any or all of the following:

(1) Procedures for making loans to lenders;

(2) Procedures for the making of project loans;

(3) Procedures for the investment in, purchase, assignment or sale of project loans;

(4) Rates, fees, charges and other terms and conditions for originating or servicing project loans;

(5) The type and amount of collateral or security to be provided to assure repayment of loans made by the agency to lenders;

(6) The type and amount of collateral or security to be provided to assure repayment of project loans;

(7) The nature and amount of fees to be charged by the agency to provide for expenses and reserves of the agency;

(8) Standards and requirements for the allocation of available money of the agency to make loans among lenders;

(9) The maturities, terms, conditions and interest rates for loans made to lenders;

(10) The maturities, terms, conditions and interest rates for project loans made, purchased, sold, assigned or committed pursuant to this Chapter; and

(11) Any other matters related to the duties or powers exercised by the agency under this Chapter.

"§ 122B-13. *Credit of State not pledged.*—Bonds or notes issued under the provisions of this Chapter shall not be secured by a pledge of the faith and credit of the State or of any political subdivision thereof or be deemed to create an indebtedness of the State, or of any such political subdivision thereof, requiring any voter approval, but shall be payable solely from the revenues and other funds provided therefor. Each bond or note issued under this Chapter shall contain on the face thereof a statement to the effect that the agency shall not be obligated to pay the same nor the interest thereon except from the revenues and other funds pledged therefor and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged as security for the payment of the principal of, redemption premium, if any, or the interest on such bond or note.

Expenses incurred by the agency in carrying out the provisions of this Chapter may be made payable from funds provided pursuant to, or made available for use under, this Chapter and no liability shall be incurred by the agency hereunder beyond the extent to which moneys shall have been so provided.

"§ 122B-14. *Bonds and notes.*—(a) The agency is hereby authorized to provide for the issuance, at one time or from time to time, of bonds, or notes in anticipation of the issuance of bonds, of the agency in an amount not to exceed 200 million dollars to carry out and effectuate its corporate purposes. The principal of and the interest on such bonds or notes shall be payable solely from funds provided under this Chapter for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or other funds provided therefor. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the agency at such price or prices and upon such terms and conditions as may be determined by the agency. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the Local Government Commission of North Carolina with the approval of the agency. Notes shall mature at such time or times not exceeding 10 years from their date or dates and bonds shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the agency. The agency shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The agency may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the agency may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest,

and for the interchange of registered and coupon bonds or notes. No bonds or notes may be issued by the agency under this Chapter unless the issuance thereof is approved by the Local Government Commission of North Carolina.

(b) The agency shall file with the Secretary of the Local Government Commission an application requesting approval of the issuance of such bonds or notes which shall contain such information and have attached to it such documents concerning the proposed financing and prospective borrower, vendee or lessee as the Secretary may require.

In determining whether a proposed bond or note issue should be approved, the Local Government Commission may consider, in addition to the criteria and requirements mentioned in this Chapter, the effect of the proposed financing upon any scheduled or proposed sale of tax-exempt obligations by the State or any of its agencies or departments or by any unit of local government in the State.

The Local Government Commission shall approve the issuance of such bonds or notes if, upon the information and evidence it receives, it finds and determines that the proposed financing will effectuate the purposes of this Chapter.

Upon the filing with the Local Government Commission of a resolution of the agency requesting that its bonds or notes be sold, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the Local Government Commission shall determine to be for the best interest of the agency and shall best effectuate the purposes of this Chapter, provided that such sale shall be approved by the agency.

(c) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions, if any, as the Agency may provide in the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes.

(d) Prior to the preparation of definitive bonds, the agency may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds, when such bonds shall have been executed and are available for delivery. The agency may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(e) Bonds or notes may be issued under the provisions of this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of any department, division, commission, board, body, bureau or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this Chapter and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes.

"§ 122B-15. *Powers of the State Treasurer.*—Notwithstanding any other provisions of this Chapter, the State Treasurer shall have the exclusive power to issue bonds and notes authorized under this Chapter upon request of the agency and with the approval of the Local Government Commission.

The State Treasurer in his sole discretion shall determine the interest rates, maturities, and other terms and conditions of the bonds and notes authorized by this Chapter.

The agency shall cooperate with the State Treasurer in structuring any bond issue in general, and also in soliciting proposals from financial consultants, underwriters and bond attorneys. The State Treasurer shall have the exclusive power to employ and designate the financial consultants, underwriters and bond attorneys to be associated with the bond issue.

Nothing in this Chapter is intended to abrogate or diminish the inherent power of the State Treasurer to negotiate the terms and conditions of the bonds and notes and to issue the bonds and notes authorized by this Chapter.

"§ 122B-16. *Trust agreement or resolution.*—In the discretion of the agency any bonds or notes issued under the provisions of this Chapter may be secured by a trust agreement by and between the agency and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution authorizing the issuance of such bonds or notes may pledge or assign all or any part of the revenues of the agency received pursuant to this Chapter, including, without limitation, fees, loan repayments, charges, insurance proceeds, condemnation awards and any other revenues and funds received in connection with any project loan and may grant a deed of trust or a mortgage on any project. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such bonds or notes as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the agency in relation to the purposes to which bond or note proceeds may be applied, the disposition or pledging of the revenues of the agency, including any payments in respect of any federally guaranteed security or any federally insured mortgage note, the duties, if any, of the agency, with respect to the acquisition, construction, maintenance, repair and operation of any project, the fees, loan repayments, rents and charges to be fixed and collected in connection therewith, the terms and conditions for the issuance of additional bonds or notes, and the custody, safeguarding and application of all moneys. All bonds issued under this Chapter shall be equally and ratably secured by a pledge, charge, and lien upon revenues provided for in such trust agreement or resolution, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this Chapter and of such trust agreement or resolution; except that the agency may provide in such trust agreement or resolution that bonds issued pursuant thereto shall to the extent and in the manner prescribed in such trust agreement or resolution be subordinated and junior in standing, with respect to the payment of principal and interest and the security thereof, to any other bonds. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of bonds or notes, revenues or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the agency. Any such trust agreement or resolution may set off the rights and remedies, including foreclosure of any deed of trust or mortgage, of the holders of any bonds or notes and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the agency may deem reasonable and proper for the security of the holders of any bonds or notes. Expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of any project or paid from the revenues pledged or assigned to the payment of the

principal of and the interest on bonds or notes or from any other funds available to the agency.

"§ 122B-17. *Revenues; pledges of revenues.*—(a) The agency is hereby authorized to fix and to collect fees, loan repayments and charges in connection with any project loan, and to contract with any borrower therefor. The agency may require that the borrower shall operate, repair or maintain the project and shall bear the cost thereof and other costs of the agency in connection with the project loan, all as may be provided in a loan agreement or other contract with the agency or a lender, in addition to other obligations imposed under such agreement or contract.

(b) The fees, loan repayments and charges shall be fixed as so to provide a fund sufficient, together with such other funds as may be made available therefor, (i) to pay the costs of operating, repairing and maintaining the project to the extent that adequate provision for the payment of such costs has not otherwise been provided for (ii) to pay the principal of and the interest on all bonds or notes as the same shall become due and payable and (iii) to create and maintain any reserves provided for in the resolution authorizing the issuance of, or any trust agreement securing, such bonds; and such fees, loan repayments and charges may be applied or pledged to the payment of debt service on the bonds prior to the payment of the costs of operating, repairing and maintaining the project.

(c) All pledges of fees, loan repayments, charges and other revenues under the provisions of this Chapter shall be valid and binding from the time when such pledges are made. All such revenues so pledged and thereafter received by the agency shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency, irrespective of whether such parties have notice thereof. The resolution or any trust agreement by which a pledge is created or any loan agreement, or other agreement need not be filed or recorded except in the records of the agency.

(d) The State of North Carolina does pledge to and agree with the holders of any bonds or notes issued by the agency that so long as any of such bonds or notes are outstanding and unpaid the State will not limit or alter the rights vested in the agency at the time of issuance of the bonds or notes to fix, revise, charge, and collect or cause to be fixed, revised, charged and collected loan repayments, fees and charges in connection with any project loan and in connection with which the bonds or notes were issued, so as to provide a fund sufficient, with such other funds as may be made available therefor, to pay the cost of operating, repairing and maintaining the project, to pay the principal of and the interest on all bonds and notes as the same shall become due and payable and to create and maintain any reserves provided therefor and to fulfill the terms of any agreements made with the bondholders or noteholders, nor will the State in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders, are fully paid, met and discharged.

"§ 122B-18. *Trust funds.*—Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this Chapter, including without limitation, fees, loan repayments, charges, insurance

proceeds, condemnation awards and any other revenues and funds received in connection with any project loan, shall be deemed to be trust funds to be held and applied solely as provided in this Chapter. The resolution authorizing the issuance of, or any trust agreement securing, any bonds or notes may provide that any of such moneys may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this Chapter, subject to such limitations as this Chapter and such resolution or trust agreement may provide. Any such moneys may be invested as provided in G.S. 159-30, as it may from time to time be amended.

"§ 122B-19. *Remedies.*—Any holder of bonds or notes issued under the provisions of this Chapter or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such bonds or notes, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or resolution, or under any other contract executed by the agency pursuant to this Chapter, and may enforce and compel the performance of all duties required by this Chapter or by such trust agreement or resolution to be performed by the agency or by any officer thereof.

"§ 122B-20. *Investment securities.*—All bonds, notes and interest coupons appertaining thereto issued under this Chapter are hereby made investment securities within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code as enacted in this State, whether or not they are of such form and character as to be investment securities under said Article 8, subject only to the provisions of the bonds and notes pertaining to registration.

"§ 122B-21. *Bonds or notes eligible for investment.*—Bonds or notes issued under the provisions of this Chapter are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds or notes are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds, notes or obligations of this State is now or may hereafter be authorized by law.

"§ 122B-22. *Refunding bonds or notes.*—The agency is hereby authorized to provide for the issuance of refunding bonds or notes for the purpose of refunding any bonds or notes then outstanding which shall have been issued under the provisions of this Chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds or notes and, if deemed advisable by the agency, for any corporate purpose of the agency.

The issuance of such bonds or notes, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the agency in respect of the same shall be governed by the provisions of this

Chapter which relate to the issuance of bonds or notes, insofar as such provisions may be appropriate therefor.

Refunding bonds or notes may be sold or exchanged for outstanding bonds or notes issued under this Chapter and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such refunding bonds or notes, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the bonds or notes being refunded, and, if so provided or permitted in the resolution authorizing the issuance of, or in the trust agreement securing, such bonds or notes, to the payment of any interest on such refunding bonds or notes and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accrued thereon will be required for the purposes intended.

"§ 122B-23. *Annual report.*—The agency shall, promptly following the close of each fiscal year, submit an annual report of its activities under this Chapter for the preceding year to the Governor, the State Auditor, the General Assembly, the Advisory Budget Commission and the Local Government Commission. The agency shall cause an audit of its books and accounts relating to its activities under this Chapter to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available moneys of the agency.

"§ 122B-24. *Officers not liable.*—No member or officer of the agency shall be subject to any personal liability or accountability by reason of his execution of any bonds or notes or the issuance thereof.

Any bonds or notes issued by the agency under the provisions of this Chapter, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes.

"§ 122B-25. *Conflict of interest.*—If any member, officer or employee of the agency shall be interested either directly or indirectly, or shall be an officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly, in any contract with the agency, such interest shall be disclosed to the agency and shall be set forth in the minutes of the agency, and the member, officer or employee having such interest therein shall not participate on behalf of the agency in the authorization of any such contract.

"§ 122B-26. *Additional method.*—The foregoing sections of this Chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or notes under the provisions of this Chapter need not comply with the requirements of any other law applicable to the issuance of bonds or notes.

"§ 122B-27. *Liberal construction.*—This Chapter, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect the purposes thereof.

"§ 122B-28. *Inconsistent laws inapplicable.*—Insofar as the provisions of this Chapter are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this Chapter shall be controlling.

"§ 122B-29. *Provisions severable.*—The provisions of this Chapter are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions."

Sec. 2. G.S. 120-123 is amended by adding a new subdivision to read:

"(39) Board of directors of the North Carolina Agricultural Facilities Finance Agency as established by G.S. 122B-5."

Sec. 3. Effective Date. This Chapter shall become effective upon certification by the State Board of Elections that an amendment to the North Carolina Constitution authorizing the enactment of general laws dealing with transactions of the type contemplated by this Chapter has been approved by the people of the State.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1040 CHAPTER 790

AN ACT TO INCREASE EXAMINATION AND LICENSE FEES FOR INSURANCE AGENTS, ADJUSTERS, APPRAISERS, BROKERS, AND COMPANIES; BAIL BONDSMEN AND RUNNERS; COLLECTION AGENCIES; AND MOTOR CLUBS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.7 is amended in the first paragraph by rewriting the column of fee amounts to read:

"$10.00
12.00
10.00
5.00
50.00
50.00
10.00
50.00".

Sec. 2. G.S. 105-228.7 is further amended after line 18 by adding the following:

"Company cancellation of agent
license (paid by company) $5.00".

Sec. 3. G.S. 105-228.7 is further amended by rewriting lines 4 through 6 of the third paragraph to read:

"dollars ($10.00). In the event subsequent examinations are requested, an additional fee of ten dollars ($10.00) shall be paid upon application for each such additional examination. The".

Sec. 4. G.S. 105-228.7 is further amended in the final paragraph by substituting "one dollar ($1.00)" for "fifty cents ($0.50)".

Sec. 5. G.S. 57-12 is amended in line 8 by substituting "two dollars ($2.00)" for "one dollar ($1.00)" and in lines 19 through 22 by rewriting those lines to read:

"cant shall pay the sum of ten dollars ($10.00). All agents operating as such for a corporation subject to the provisions".

Sec. 6. G.S. 58-63(1) is amended in line 6 by substituting "two dollars ($2.00)" for "one dollar ($1.00)".

Sec. 7. G.S. 66-49.11(2) is amended in line 2 by substituting "two hundred dollars ($200.00)" for "one hundred dollars ($100.00)".

Sec. 8. G.S. 66-49.11(3) is amended by substituting "twenty dollars ($20.00)" for "ten dollars ($10.00)".

Sec. 9. G.S. 66-49.11(4) is amended in line 2 by substituting "fifty dollars ($50.00)" for "twenty-five dollars ($25.00)".

Sec. 10. G.S. 66-49.31 is amended in lines 2, 3,6, and 7 by substituting "five hundred dollars ($500.00)" for "two hundred fifty dollars ($250.00)".

Sec. 11. G.S. 85C-12 is amended in line 1 by substituting "sixty dollars ($60.00)" for "thirty dollars ($30.00)" and in lines 2 and 3 by substituting "twenty dollars ($20.00)" for "ten dollars ($10.00)".

Sec. 12. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1342 CHAPTER 791

AN ACT TO LIMIT THE USE OF CENTER-FIRE RIFLES IN HARNETT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to use a center-fire rifle in hunting on the land of another or from any road or right-of-way adjoining the land of another without the written permission of the owner or lessee of that land. The written permission shall be dated, it shall be effective for only 12 months after it is granted, it shall not be transferable, and it shall be carried on the person of anyone using a center-fire rifle to hunt.

Sec. 2. Violation of this act is a misdemeanor punishable for a first conviction by a fine of not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00) or by imprisonment not to exceed 30 days, and punishable for a second conviction within three years by a fine of not less than one hundred dollars ($100.00) nor more than two hundred fifty dollars ($250.00), by imprisonment not to exceed 90 days or by both.

Sec. 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by deputy sheriffs and by other peace officers with general subject matter jurisdiction.

Sec. 4. This act applies to Harnett County only.

Sec. 5. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 130 CHAPTER 792

AN ACT AUTHORIZING A REFUND OF THE EXCISE TAX LEVIED ON SACRAMENTAL WINE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-113.96 is rewritten to read:

"§ 105-113.96. *Refund for tax paid on sacramental wine.*—(a) Any person who purchases fortified or unfortified wine for the purposes stated in G.S. 18B-103(8) may secure a refund from the Secretary of Revenue for the amount of the excise tax levied on that wine under this Article. The Secretary of Revenue shall make refunds annually.

(b) An applicant for a refund authorized by this section shall file a written request with the Secretary for the refund due for the prior calendar year on or before April 15. The Secretary may by rule prescribe what information and records must be supplied for the applicant to qualify for the refund.

(c) An application for a refund filed later than required in subsection (b) shall be accepted by the Secretary, but shall be subject to the following late penalties: an application filed by May 15, twenty-five percent (25%); an application filed after May 15 but no later than October 15, fifty percent (50%). No refund may be made if the application is filed after October 15."

Sec. 2. This act shall become effective January 1, 1984, and applies to taxes paid on and after that date.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 230 CHAPTER 793

AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR CERTAIN REAL PROPERTIES DONATED FOR CONSERVATION PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Division I of Article 4 of Chapter 105 is amended by adding a new section to read:

"§ 105-130.34. *Credit for certain real property donations.*—(a) Any corporation that makes a qualified donation of interest in real property located in North Carolina during the taxable year that is useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation purposes, shall be allowed a credit against the taxes imposed by this Division equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated to and accepted by either the State, local government or a body that is both organized to receive and administer lands for conservation purposes and is qualified to receive charitable contributions pursuant to G.S. 105-130.9; provided, however, that lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under such regulations or ordinances shall not be eligible for this credit. The credit allowed under this section may not exceed five thousand dollars ($5,000). To support the credit allowed by this section, the taxpayer shall file with its income tax return for the taxable year in which the credit is claimed, a certification by the Department of Natural Resources and Community Development that the

property donated is suitable for one or more of the valid public benefits set forth in this subsection.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed under this Division, except payments of tax made by or on behalf of the taxpayer.

(c) Any unused portion of this credit may be carried forward for the next succeeding five years.

(d) The fair market value, or any portion thereof, of a qualifying donation that is not eligible for a credit pursuant to this section may be considered as a charitable contribution pursuant to G.S. 105-130.9. That portion of the donation allowed as a credit pursuant to this section shall not be eligible as a charitable contribution."

Sec. 2. G.S. 105-130.9 is amended to add a new subsection to read:

"(4) That portion of a contribution that is claimed as a tax credit pursuant to G.S. 105-130.34 shall not be eligible for a deduction pursuant to this section."

Sec. 3. Division II Article 4 of Chapter 105 is amended by adding a new section to read:

"§ 105-151.12. *Credit for certain real property donations.*—(a) Any person that makes a qualified donation of interests in real property located in North Carolina during the taxable year that is useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation purposes, shall be allowed a credit against the taxes imposed by this Division equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated to and accepted by either the State, local government or a body that is both organized to receive and administer lands for conservation purposes and is qualified to receive charitable contributions pursuant to G.S. 105-147(15) or (16); provided, however, that lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under such regulations or ordinances shall not be eligible for this credit. The credit allowed under this section may not exceed five thousand dollars ($5,000). To support the credit allowed by this section, the taxpayer shall file with the income tax return for the taxable year in which the credit is claimed, a certification by the Department of Natural Resources and Community Development that the property donated is suitable for one or more of the valid public benefits set forth by this subsection.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed under this Division, except payments of tax made by or on behalf of the taxpayer.

(c) Any unused portion of this credit may be carried forward for the next succeeding five years.

(d) The fair market value, or any portion thereof, of a qualifying donation that is not eligible for a credit pursuant to this section may be considered as a charitable contribution pursuant to G.S. 105-147(15) or (16). That portion of the donation allowed as a credit pursuant to this section shall not be eligible as a charitable contribution.

(e) In the case of property owned by the entirety, where both spouses are required to file North Carolina income tax returns, each spouse may claim one half of the credit allowed by this section or one spouse may claim the entire credit allowed by this section by agreement with the other spouse, provided both spouses were living together at the end of the taxable year and file their separate returns for the taxable year on the combined form. Where only one spouse is required to file a North Carolina income tax return, such spouse may claim the credit allowed by this section."

Sec. 4. G.S. 105-147(15) and G.S. 105-147(16) are amended by adding a sentence at the end thereof to read:

"That portion of a contribution that is claimed as a tax credit pursuant to G.S. 105-151.12 shall not be eligible for a deduction pursuant to this subsection."

Sec. 5. This act is effective for taxable years beginning on and after January 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 255 CHAPTER 794

AN ACT TO AMEND GENERAL STATUTES CHAPTER 74C, THE PRIVATE PROTECTIVE SERVICES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74C-3(a)(6) is amended on line 20 by inserting the following between "employer" and ";":

", except that if the employee is an armed private security officer and wears, carries, or possesses a firearm in the performance of his duties, the provisions of G.S. 74C-13 shall apply".

Sec. 2. G.S. 74C-5(9) is rewritten to read:

"(9) Establish rules governing detection of deception schools and alarm systems schools, and charge fees for reimbursement of costs incurred pursuant to approval of such schools."

Sec. 3. G.S. 74C-8(b)(4) is rewritten to read:

"(4) The full name and address of any partners in the business and the principal officers, directors and business manager, if any;".

Sec. 4. G.S. 74C-10(c) is amended by deleting from line 2 the words, "surety bond or" and by rewriting the second sentence to read:

"The holder of a trainee permit under this Article must satisfy the requirements of Article II of this Chapter before the permit is issued."

Sec. 5. G.S. 74C-16 is amended by adding a new subsection to read:

"(e) No licensee shall hold himself out as employed by or licensed by the State Bureau of Investigation."

Sec. 6. G.S. 74C-17 is amended by adding two new subsections to read:

"(c) In lieu of revocation or suspension of a license under G.S. 74C-12, a civil penalty of not more than two thousand dollars ($2,000) may be assessed by the Board against any person or business who violates any provision of this Chapter or any rule of the Board adopted pursuant to this Chapter. In determining the amount of any penalty, the Board shall consider the degree and extent of harm caused by the violation.

(d) Proceedings for the assessment of civil penalties under this section shall be governed by Chapter 150A of the General Statutes. If the person assessed a civil penalty fails to pay the penalty to the Board, the Board may institute an action in the superior court of the county in which the person resides or has his principal place of business to recover the unpaid amount of the penalty. An action to recover a civil penalty under this section shall not relieve any party from any other penalty prescribed by law."

Sec. 7. G.S. 74C-4(b) is rewritten to read:

"(b) The Board shall consist of 10 members: the Attorney General or his designated representative, two persons appointed by the Attorney General, one person appointed by the Governor, two persons appointed by the General Assembly upon the recommendation of the President of the Senate, one person appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. All appointments by the General Assembly shall be subject to the provisions of G.S. 120-121, and vacancies in the positions filled by those appointments shall be filled pursuant to G.S. 120-122. Those persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be licensees under this Chapter; all other appointees may not be licensees of the Board nor licensed by the Board while serving as Board members. All persons appointed shall serve terms of three years. With the exception of the Attorney General or his designated representative, no person shall serve more than six consecutive years on the Board, including years of service prior and subsequent to July 1, 1983. Board members may continue to serve until their successors have been appointed."

Sec. 8. G.S. 74C-9(e)(3) is rewritten to read:

"(3) A new or renewal trainee permit fee in an amount not to exceed two hundred fifty dollars ($250.00);".

Sec. 9. G.S. 14-401.6(a)(4) is amended by substituting "74C" for "74B".

Sec. 10. Schedule. It is the intent of the General Assembly to provide continuity in Board membership. Therefore, all current appointments shall expire on June 30, 1983. The following schedule of staggered terms shall apply to all new appointments: With regard to the persons appointed by the Attorney General, one shall serve a two-year term to expire on June 30, 1985, and one shall serve a three-year term to expire on June 30, 1986; the person appointed by the Governor shall serve a one-year term to expire on June 30, 1984; with regard to the persons appointed by the General Assembly upon recommendation of the President of the Senate, one shall serve a two-year term to expire on June 30, 1985, and one shall serve a three-year term to expire on June 30, 1986; the person appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall serve a one-year term to expire on June 30, 1984; and with regard to the persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one shall serve a one-year term to expire on June 30, 1984, one shall serve a two-year term to expire on June 30, 1985, and one shall serve a three-year term to expire on June 30, 1986. Upon the expiration of each of the above appointments, the appointing authority shall appoint successors for three-year terms as specified in G.S. 74C-4(b).

Sec. 11. G.S. 74C-8(d)(3) is amended by rewriting lines 3-6 to read: "in an investigative capacity as a member of any federal law enforcement agency, any State law enforcement agency, any municipal law enforcement department, or any county law enforcement or sheriff's department. After administrative remedies have been exhausted, disputes with the board arising under G.S. 74C-8(d)(3) may be carried directly to the General Court of Justice in the county where the complainant resides."

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 322 CHAPTER 795

AN ACT AUTHORIZING THE DEPARTMENT OF HUMAN RESOURCES TO DESIGNATE GEOGRAPHIC AREAS WITHIN WHICH A SOLID WASTE MANAGEMENT PLAN WILL PROVIDE FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE; REQUIRING WASTE GENERATED WITHIN SAID AREAS TO BE DISPOSED OF AT PERMITTED SOLID WASTE MANAGEMENT FACILITIES; AUTHORIZING CITIES AND COUNTIES TO EVALUATE PROPOSALS AND NEGOTIATE CONTRACTS ON THE BASIS OF FACTORS OTHER THAN PRICE ALONE; AND EXPANDING THE POWERS OF MUNICIPALITIES WITH RESPECT TO THE ISSUANCE OF REVENUE BONDS FOR SYSTEMS, FACILITIES AND EQUIPMENT FOR THE COLLECTION, TREATMENT OR DISPOSAL OF SOLID WASTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-166.16 is amended by adding a new subdivision to read:

"(23) 'Unit of local government' means a county, city, town or incorporated village."

Sec. 2. G.S. 130-166.17 is rewritten to read:

"§ 130-166.17. *Solid Waste Unit in Department of Human Resources.*—(a) For the purpose of promoting and preserving an environment that is conducive to public health and welfare, and preventing the creation of nuisances and the depletion of our natural resources, the Department of Human Resources shall maintain an appropriate administrative unit to promote sanitary processing, treatment, disposal, and statewide management of solid waste and the greatest possible recycling and recovery of resources, and the Department shall employ and retain such qualified personnel as may be necessary to effect such purposes. It is the purpose and intent of the State to be and remain cognizant not only of its responsibility to authorize and establish the statewide solid waste management program, but also of its responsibility to monitor and supervise, through the Department of Human Resources, the activities and operations of units of local government implementing a permitted solid waste management facility serving a specified geographic area in accordance with a solid waste management plan.

(b) In furtherance of said purpose and intent, it is hereby determined and declared that it is necessary for the health and welfare of the inhabitants of the State that solid waste management facilities permitted hereunder and serving a specified geographic area shall be used by public or private owners or occupants

of all lands, buildings, and premises within said area, and a unit of local government may, by ordinance, require that all solid waste generated within said area and placed in the waste stream for disposal, shall be delivered to the permitted solid waste management facility or facilities serving such geographic area. Actions taken pursuant to this Article shall be deemed to be acts of the sovereign power of the State of North Carolina, and to the extent reasonably necessary to achieve the purposes of this section, a unit of local government may displace competition with public service for solid waste management and disposal. It is further determined and declared that no person, firm, corporation, association or entity within said geographic area shall engage in any activities which would be competitive with this purpose or with ordinances, rules or regulations adopted pursuant to the authority granted herein."

Sec. 3. G.S. 130-166.18(a) is amended by deleting subdivision (5) and inserting the following new subdivisions in its place:

"(5a) Designate a geographic area within which the collection, transportation, storage and disposal of all solid waste generated within said area shall be accomplished in accordance with a solid waste management plan. Such designation may be made only after the Department has received a request from the unit or units of local government having jurisdiction within said geographic area that such designation be made and after receipt by the Department of a solid waste management plan which shall include:

a. The existing and projected population for such area;
b. The quantities of solid waste generated and estimated to be generated in such area;
c. The availability of sanitary landfill sites and the environmental impact of continued landfill of solid waste on surface and subsurface waters;
d. The method of solid waste disposal to be utilized and the energy or material which shall be recovered from the waste; and
e. Such other data that the Department may reasonably require.

(5b) Authorize units of local government to require by ordinance, that all solid waste generated within the designated geographic area that is placed in the waste stream for disposal be collected, transported, stored and disposed of at a permitted solid waste management facility or facilities serving such area. The provisions of such ordinance shall not be construed to prohibit the source separation of materials from solid waste prior to collection of such solid waste for disposal, or prohibit collectors of solid waste from recycling materials or limit access to such materials as an incident to collection of such solid waste; provided such prohibitions do not authorize the construction and operation of a resource recovery facility unless specifically permitted pursuant to an approved solid waste management plan. If a private solid waste landfill shall be substantially affected by such ordinance then the unit of local government adopting the ordinance shall be required to give the operator of the affected landfill at least two years written notice prior to the effective date of the proposed ordinance.

(5c) Except for the authority to designate a geographic area to be serviced by a solid waste management facility, delegate authority and responsibility to units of local government to perform all or a portion of a solid waste management program within the jurisdictional area of the unit of local government; provided that no authority over or control of the operations or properties of one local government shall be delegated to any other local government.

(5d) Require that an annual report of the implementation of the solid waste management plan within the designated geographic area be filed with the Department."

Sec. 4. Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-129.2. *Construction, design and operation of solid waste management facilities.*—(a) All terms relating to solid waste management and disposal as used in this section shall be defined as set forth in G.S. 130-166.16.

(b) To acknowledge the highly complex and innovative nature of solid waste management technology for processing mixed solid waste, the relatively limited availability of existing and proven proprietary technology involving solid waste management facilities, the desirability of a single point of responsibility for the development of facilities and the economic and technical utility of contracts for solid waste management which include in their scope combinations of design, construction, operation, management and maintenance responsibilities over prolonged periods of time and that in some instances it may be beneficial to a unit of local government to award a contract on the basis of factors other than cost alone, including but not limited to facility design, operational experience, system reliability, energy production efficiency, long-term operational costs, compatibility with source separation and other recycling systems, environmental impact and operational guarantees. Accordingly, and notwithstanding other provisions of this Article 8, or any other general, special or local law, a contract entered into between a unit of local government and any person pursuant to this section may be awarded in accordance with the following provisions for the award of a contract based upon an evaluation of proposals submitted in response to a request for proposals prepared by or for a unit of local government.

(c) The unit of local government shall require in its request for proposals that each proposal to be submitted shall include:

(1) information relating to the experience of the proposer on the basis of which said proposer purports to be qualified to carry out all work required by a proposed contract; the ability of the proposer to secure adequate financing; and proposals for project staffing, implementation of work tasks, and the carrying out of all responsibilities required by a proposed contract;

(2) a proposal clearly identifying and specifying all elements of cost which would become charges to the unit of local government, in whatever form, in return for the fulfillment by the proposer of all tasks and responsibilities established by the request for the proposal for the full lifetime of a proposed contract, including, as appropriate, but not limited to, the cost of planning, design, construction, operation, management and/or maintenance of any facility; provided, that the unit of local government may prescribe the form and content of such proposal and that, in any event, the proposer must submit sufficiently detailed information to permit a fair and equitable evaluation of such proposal;

(3) such other information as the unit of local government may determine to have a material bearing on its ability to evaluate any proposal in accordance with this section.

(d) Proposals received in response to such request for proposals may be evaluated on the basis of a technical analysis of facility design, operational experience of the technology to be utilized in the proposed facility, system reliability and availability, energy production balance and efficiency, environmental impact and protection, recovery of materials, required staffing level during operation, projection of anticipated revenues from the sale of energy and materials recovered by the facility, net cost to the unit of local government for operation and maintenance of the facility for the duration of time to be established in the request for proposals and upon such other factors and information as the unit of local government determined to have a material bearing on its ability to evaluate any proposal, which factors were set forth in said request for proposal.

(e) The unit of local government may make a contract award to any responsible proposer selected pursuant to this section based upon a determination that the selected proposal is more responsive to the request for proposals and may thereupon negotiate a contract with said proposer for the performance of the services set forth in the request for proposals and the response thereto, such determination shall be deemed to be conclusive. Notwithstanding other provisions of this Article 8, or any other general, local or special law, a contract may be negotiated and entered into between a unit of local government and any person selected as a responsible proposer hereunder which may provide for, but not be limited to, the following:

(1) a contract, lease, rental, license, permit or other authorization to design, construct, operate and maintain such a solid waste management facility, upon such terms and conditions for such consideration and for such term or duration, not to exceed 40 years, as may be agreed upon by the unit of local government and such person;

(2) payment by the unit of local government of a fee or other charge to such person for acceptance, processing, recycling, management and disposal of solid waste;

(3) an obligation on the part of a unit of local government to deliver or cause to be delivered to a solid waste management facility guaranteed quantities of solid wastes; and

(4) the sale, utilization or disposal of any form of energy, recovered material or residue resulting from the operation of any solid waste management facility.

(f) The construction work for any facility or structure which is ancillary to the solid waste management facility and which does not involve storage and processing of solid waste or the separation, extraction and recovery of useful or marketable forms of energy and materials from solid waste at the solid waste management facility, shall be procured through competitive bidding procedures described by G.S. 143-128 through G.S. 143-129.1. Such ancillary facilities shall include but shall not necessarily be limited to the following: roads, water and sewer lines to the facility limits, transfer stations, scale house, administration buildings and residue and bypass disposal sites."

Sec. 5. G.S. 159-96 is amended by rewriting the last sentence to read:

"Provided, however, that revenue bonds may be issued for the purpose of financing in whole or in part mass transit systems, aeronautical facilities, marine facilities and systems, facilities and equipment for the collection, treatment or disposal of solid waste, notwithstanding that such systems,

facilities or equipment may be operated for users outside the corporate limits of a municipality where the municipality finds that the system, facilities or equipment so financed would benefit the municipality."

Sec. 6. G.S. 159-97(g)(1) is rewritten to read:

"(1) A 'revenue bond project' is limited, notwithstanding the provisions of G.S. 159-81, to (i) aeronautical facilities, including but not limited to airports, terminals and hangars, (ii) hospitals and other health-related facilities, and (iii) systems, facilities and equipment for the collection, treatment or disposal of solid waste within the meaning of said G.S. 159-81,".

Sec. 7. Sections 5 and 6 of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

Sec. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 8.1. If Senate Bill 141 is enacted by the 1983 General Assembly, then effective January 1, 1984:

(1) G.S. 130-166.16(23) as enacted by Section 1 of this act is recodified as G.S. 130A-290(25);

(2) The amendments made by Section 2 of this act are made to G.S. 130A-291;

(3) The amendments made by Section 3 of this act are made to G.S. 130A-294;

(4) G.S. 143-129.2(a) as enacted by Section 4 of this act is amended by deleting "G.S. 130-166.16", and inserting in lieu thereof "G.S. 130A-290".

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 459 CHAPTER 796

AN ACT EXEMPTING THE COUNTY OF GASTON FROM THE PROVISIONS OF ARTICLE 12, CHAPTER 160A OF THE GENERAL STATUTES, AS TO LEASES OF REAL ESTATE OWNED BY IT KNOWN AS GASTON MEMORIAL HOSPITAL PROPERTY AND THE SALE OF PERSONAL PROPERTY USED FOR THE HOSPITAL.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Gaston County is hereby authorized and empowered to lease, in a privately negotiated transaction, to Gaston Memorial Hospital, Inc., a private nonprofit corporation organized under Chapter 55A of the North Carolina General Statutes, for a term greater than 10 years, but not more than 25 years, the real property known as Gaston Memorial Hospital located on Hospital Drive in Gastonia, North Carolina. As a condition of the lease, Gaston Memorial Hospital, Inc., and any successor corporation or assignee shall amend its charter and bylaws as

necessary so that the Gaston County Board of County Commissioners shall appoint its board of directors.

Sec. 2. The Board of County Commissioners of Gaston County is hereby authorized and empowered to sell, in a privately negotiated sale to Gaston Memorial Hospital, Inc., a private nonprofit corporation organized under Chapter 55A of the General Statutes, the hospital equipment owned by Gaston County.

Sec. 3. Gaston County is exempted from all provisions of Article 12, Chapter 160A of the General Statutes in conflict with the provisions of this act.

Sec. 4. Sections 1 and 3 of this act are effective upon ratification. Section 2 of this act shall become effective July 1, 1984.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1314 CHAPTER 797

AN ACT TO AUTHORIZE CITIES TO SELL PROPERTY IN COMMUNITY DEVELOPMENT PROGRAMS TO REDEVELOPERS AT PRIVATE SALE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-457(3) is amended by changing the period at the end to a semicolon and by adding after the semicolon the following: "or subsection (4) of this section."

Sec. 2. G.S. 160A-457 is further amended by adding a new subdivision to read:

"(4) To sell, exchange, or otherwise transfer real property or any interest therein in a community development project area to any redeveloper at private sale for residential, recreational, commercial, industrial or other uses or for public use in accordance with the community development plan, subject to such covenants, conditions and restrictions as may be deemed to be in the public interest or to carry out the purposes of this Article; provided that such sale, exchange or other transfer, and any agreement relating thereto, may be made only after approval of the municipal governing body and after a public hearing; a notice of the public hearing shall be given once a week for two successive weeks in a newspaper having general circulation in the municipality, and the notice shall be published the first time not less than 10 days nor more than 25 days preceding the public hearing; and the notice shall disclose the terms of the sale, exchange or transfer. At the public hearing the appraised value of the property to be sold, exchanged or transferred shall be disclosed; and the consideration for the conveyance shall not be less than the appraised value."

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1326 CHAPTER 798

AN ACT TO ALLOW A LIMITED DRIVING PRIVILEGE UPON CONVICTION OF SPEEDING VIOLATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-16 is amended by adding a new subsection (e1) to read:

"(e1) Notwithstanding any other provision of this Chapter, if the Division suspends the license of an operator pursuant to subdivisions (a)(9), (a)(10), or (a)(10a) of this section, upon the first suspension only, a district court judge may allow the licensee a limited driving privilege or license for a period not to exceed 12 months, provided he has not been convicted of any other motor vehicle moving violation within the previous 12 months. The limited driving privilege shall be issued in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b)(1), (2), (3), (4), and (5)."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1330 CHAPTER 799

AN ACT TO PROVIDE A METHOD TO ESTABLISH THAT A NOTICE OF SALE HAS BEEN POSTED AT THE COURTHOUSE AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-21.33(c)(3) is amended by adding at the end thereof a sentence to read as follows:

"In the absence of an affidavit to the contrary filed with the clerk prior to the order confirming the sale, an affidavit by the person holding the sale that the notice of sale was posted at the courthouse door in the county or counties in which the property is situated 20 days prior to the sale shall be proof of compliance with the requirements of G.S. 45-21.17(1)(a)."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1346 CHAPTER 800

AN ACT CONCERNING CERTIFICATION OF CROP SEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-272 is amended by deleting the words ", including rules and regulations fixing fees".

Sec. 2. G.S. 106-272 is further amended by deleting the words "and fixing the market price of certified seed,".

Sec. 3. G.S. 106-274 is rewritten to read:

"§ 106-274. *Certification of crop seeds.*—For the purposes of this Article the certification of seed, tubers, plants, or plant parts hereunder shall be defined as being produced, conditioned, and distributed under the rules and regulations for certification."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1366 CHAPTER 801

AN ACT TO AMEND THE RULE REGARDING DEPOSITIONS UPON ORAL EXAMINATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 30 (b)(4) is rewritten to read:

"(4) In addition to stenographic means, testimony at a deposition may also be taken without order of court by other methods, including videotape. If the testimony is to be taken by other methods in addition to stenographic means, the notice shall state the methods by which it shall be taken and the deposing party shall provide for the transcribing of the testimony taken and the filing of the transcript of such testimony with the clerk in the manner provided in subsection (f)(1) of this rule."

Sec. 2. G.S. 1A-1, Rule 30(b) is amended by adding a new subdivision to read:

"(7) The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone. For the purposes of this rule and Rules 28(a), 37(a)(1) and 45(d), a deposition taken by telephone is taken in the district and the place where the deponent is to answer questions propounded to him."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1403 CHAPTER 802

AN ACT TO AMEND CHAPTERS 58 AND 66 OF THE GENERAL STATUTES TO ALLOW FOR LIMITED LICENSING OF MOTOR CLUB SALES AGENTS TO PROVIDE INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-41.2(a) is hereby amended by adding, immediately after subdivision (2), the following subdivision:

"(3) As Motor Club Membership Sales Agents to persons or firms engaged in the sales of Memberships for Motor Clubs licensed under Article 9B of Chapter 66 of the General Statutes."

Sec. 2. G.S. 58-41.2 is hereby amended further by adding, immediately after subsection (b), the following subsection:

"(c) Motor Club Membership Sales Agents shall be restricted to the sale of only such insurance as may be included in the Motor Club Membership unless they are also otherwise licensed as insurance agents under this Chapter."

Sec. 3. G.S. 66-49.18 is hereby rewritten as follows:

"§ 66-49.18. *Insurance licensing provisions not affected.*—Nothing in this Article shall be construed as amending, repealing, or in any way affecting any laws now in force relating to the licensing of Motor Club Membership Sales Agents or to the licensing or regulation of insurance agents and insurance companies, as provided in Chapter 58 of the General Statutes."

Sec. 4. G.S. 58-41.1(a)(1) is amended by substituting "58-124.28" for "58-131.9".

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1460 CHAPTER 803

AN ACT TO AMEND THE CAPITAL IMPROVEMENTS APPROPRIATIONS ACT TO CONFORM TO THE REQUIREMENTS OF THE 1983 SEPARATION OF POWERS ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 757 of the 1983 Session Laws is amended by repealing the third sentence of Section 6 and is further amended by repealing Sections 7 and 8 in their entirety.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

S. B. 556 CHAPTER 804

AN ACT TO AMEND G.S. 143-134.1 TO REQUIRE TIMELY PAYMENTS TO SUBCONTRACTORS AND TO PREVENT RETAINAGE PERCENTAGES ON SUBCONTRACT PAYMENTS TO EXCEED THOSE ON PRIME CONTRACT PAYMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-134.1 is amended by rewriting the catch line to read:

"§ 143-134.1. *Interest on final payments due to prime contractors; payments to subcontractors.*"

Sec. 2. G.S. 143-134.1 is further amended by designating the present section as subsection (a) and adding subsections (b), (c), and (d) to read:

"(b) Within seven days of receipt by the prime contractor of each periodic or final payment, the prime contractor shall pay the subcontractor based on work completed or service provided under the subcontract. Should any periodic or final payment to the subcontractor be delayed by more than seven days after receipt of periodic or final payment by the prime contractor, the prime contractor shall pay the subcontractor interest, beginning on the eighth day, at the rate of one percent (1%) per month or fraction thereof on such unpaid balance as may be due.

(c) The percentage of retainage on payments made by the prime contractor to the subcontractor shall not exceed the percentage of retainage on payments made by the owner to the prime contractor. Any percentage of retainage on payments made by the prime contractor to the subcontractor that exceeds the percentage of retainage on payments made by the owner to the prime contractor shall be subject to interest to be paid by the prime contractor to the subcontractor at the rate of one percent (1%) per month or fraction thereof.

(d) Nothing in this section shall prevent the prime contractor at the time of application and certification to the owner from withholding application and certification to the owner for payment to the subcontractor for unsatisfactory job progress; defective construction not remedied; disputed work; third party claims filed or reasonable evidence that claim will be filed; failure of subcontractor to make timely payments for labor, equipment, and materials; damage to prime contractor or another subcontractor; reasonable evidence that subcontract cannot be completed for the unpaid balance of the subcontract sum; or a reasonable amount for retainage not to exceed the initial percentage retained by the owner."

Sec. 3. This act is effective upon ratification and shall apply only to contracts executed on or after that date.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

S. B. 626 CHAPTER 805

AN ACT TO TAX ALL COMMERCIALLY MANUFACTURED SWINE, LIVESTOCK, AND POULTRY EQUIPMENT USED BY FARMERS AT A UNIFORM RATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(1)n. is rewritten to read:

"n. Sales to farmers of commercially manufactured swine, livestock, or poultry equipment or facilities and accessories thereto. The sale of the total number of poultry cages to be served by the same automatic feeder, automatic waterer, or automatic egg collector constitutes the sale of a single article that is separate and distinct from a feeder, waterer, or egg collector."

Sec. 2. G.S. 105-164.4(1)p. is repealed.

Sec. 3. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

S. B. 638 CHAPTER 806

AN ACT TO MAKE A TECHNICAL AMENDMENT TO CHAPTER 23 OF THE 1983 SESSION LAWS TO AUTHORIZE THE DEPARTMENT OF HUMAN RESOURCES TO FIX PAYMENTS FOR SERVICES RENDERED TO THE PUBLIC.

The General Assembly of North Carolina enacts:

Section 1. Chapter 23 of the 1983 Session Laws is amended in the first sentence of Section 2 as follows:

after the words "valid expenditure of the" and before the words "control of such funds," add the words "funds of any such pupil, patient or inmate by any fiduciary who may be in the".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

S. B. 642 CHAPTER 807

AN ACT TO MAKE CHANGES TO THE MEMBERSHIP AND APPOINTMENT AUTHORITY OF THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 17C-3(a) is hereby rewritten as follows:

"(a) There is hereby established the North Carolina Criminal Justice Education and Training Standards Commission, hereinafter called 'the Commission', in the Department of Justice. The Commission shall be composed of 26 members as follows:

(1) Police Chiefs. Three police chiefs selected by the North Carolina Association of Chiefs of Police and one police chief appointed by the Governor.

(2) Police Officers. Three police officials appointed by the North Carolina Association of Police Executives, one police officer and one company police officer selected by the North Carolina Law Enforcement Officers' Association.

(3) Departments. The Attorney General of the State of North Carolina; the Secretary of the Department of Crime Control and Public Safety; the Secretary of the Department of Human Resources; the Secretary of the Department of Correction; the President of the Department of Community Colleges.

(4) At-large Groups. One individual representing and appointed by each of the following organizations: one mayor selected by the League of Municipalities; one law enforcement training officer selected by the North Carolina Law Enforcement Training Officers' Association; one criminal justice educator selected by the North Carolina Association of Criminal Justice Educators; one sworn law enforcement officer selected by the North State Law Enforcement Officers' Association; one member selected by the North Carolina Law Enforcement Women's Association; and one District Attorney selected by the North Carolina Association of District Attorneys.

(5) Citizens and Others. The President of The University of North Carolina; the Director of the Institute of Government; and two citizens, one of whom shall be selected by the Governor and one of whom shall be selected by the Attorney General. The General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. Appointments by the General Assembly shall serve two-year terms to conclude on June 30th in odd-numbered years."

Sec. 2. G.S. 17C-3(b) as the same appears in the 1981 Cumulative Supplement to 1978 Replacement Volume 1C of the General Statutes is amended by rewriting the first through the fourth paragraphs of that subsection as follows:

"(b) The members shall be appointed for staggered terms. The initial appointments shall be made prior to September 1, 1983, and the appointees shall hold office until July 1 of the year in which their respective terms expire and until their successors are appointed and qualified as provided hereafter:

For the terms of one year: one member from subdivision (1) of subsection (a), serving as a police chief; three members from subdivision (2) of subsection (a), one serving as a police official, one serving as a police officer, and one serving as a company police officer; one member from subdivision (4) of subsection (a), appointed by the North Carolina Law Enforcement Training Officers' Association; and two members from subdivision (5) of subsection (a), one appointed by the Governor and one appointed by the Attorney General.

For the terms of two years: one member from subdivision (1) of subsection (a), serving as a police chief; one member from subdivision (2) of subsection (a), serving as a police official; and two members from subdivision (4) of subsection

(a), one appointed by the League of Municipalities and one appointed by the North Carolina Association of District Attorneys.

For the terms of three years: two members from subdivision (1) of subsection (a), one police chief appointed by the North Carolina Association of Chiefs of Police and one police chief appointed by the Governor; one member from subdivision (2) of subsection (a), serving as a police official; and three members from subdivision (4) of subsection (a), one appointed by the North Carolina Law Enforcement Womens' Association, one appointed by the North Carolina Association of Criminal Justice Educators, and one appointed by the North State Law Enforcement Officers' Association."

Sec. 3. G.S. 17C-5(a) as the same appears in the 1981 Cumulative Supplement to 1978 Replacement Volume 1C is hereby rewritten as follows:

"(a) The Commission shall elect one of the members of the Commission as Chairman at the first regular meeting after July 1 of each year. The ex officio members shall not be eligible for election as Chairman."

Sec. 4. G.S. 17C-9(b) as the same appears in the 1981 Cumulative Supplement to 1978 Replacement Volume 1C is hereby rewritten as follows:

"(b) The Attorney General shall appoint a director for the Division chosen from a list of three nominees submitted to him by the Commission who shall be responsible to and serve at the pleasure of the Attorney General and the Commission."

Sec. 5. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

S. B. 647 CHAPTER 808

AN ACT TO ABOLISH THE SALE OF TAX LIENS TO PRIVATE PURCHASERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-369 is rewritten to read:

"§ 105-369. *Advertisement of tax liens on real property for failure to pay taxes.*—(a) Report of unpaid Taxes that are Liens on Real Property. On the first Monday in February in each year, each county tax collector and on the second Monday in February in each year, each municipal tax collector shall report to the governing body the total amount of unpaid taxes for the current fiscal year that are liens on real property, and the governing body shall thereupon order the tax collector to advertise such tax liens at one of the times specified in subsection (b), below. For purposes of this section, district taxes collected by county tax collectors shall be regarded as county taxes and district taxes collected by municipal tax collectors shall be regarded as municipal taxes.

(b) Time for Advertisement. The county tax lien advertisement shall begin on the first Monday in March, April, May, or June, and the municipal tax lien advertisement shall begin on the second Monday in any of the four specified months. (If the taxes of two or more taxing units are collected by the same tax collector, lien advertisements for both, or all, may begin on either the first or second Monday of a month in which tax lien advertisements may be begun.) Failure to comply with the provisions of this section shall not affect the validity of the taxes or the tax liens.

(c) Contents of Advertisement. Advertisement of tax liens shall be made by posting at some public place at the courthouse (in the case of county taxes) or city or town hall (in the case of municipal taxes) and by advertisement once each week for four successive weeks in one or more newspapers having general circulation in the taxing unit. The costs of newspaper advertising shall be paid by the taxing unit. (If the taxes of two or more taxing units are collected by the same tax collector, the tax liens of each unit shall be advertised separately unless, under the provisions of a special act or contractual agreement between the taxing units, joint advertisement is permitted.)

The posted notice and newspaper advertisement shall set forth the following information:

(1) The name of each person to whom is listed real property on which the taxing unit has a lien for unpaid taxes, together with a brief description of each parcel of land to which such a lien has attached and a statement of the principal amount of the taxes constituting a lien against the parcel.

(2) A statement that the amounts advertised will be increased by interest and costs and that the omission of interest and costs from the amounts advertised will not constitute waiver of the taxing unit's claim for those items.

(3) In the event the list of tax liens has been divided for purposes of advertisement in more than one newspaper, a statement of the names of all newspapers in which advertisements will appear and the dates on which they will be published.

(4) A statement that the taxing unit may foreclose the tax liens and sell the real property subject to the liens in satisfaction of its claim for taxes.

(c) Costs. Each parcel of real property advertised pursuant to this section shall be assessed an advertising fee to cover the actual cost of the advertisement. Actual advertising costs per parcel shall be determined by the tax collector on any reasonable basis. Advertising costs assessed pursuant to this subdivision (c) shall be deemed to be taxes.

(d) Payments during Advertising Period. At any time during the advertisement period, any parcel may be withdrawn from the list by payment of the taxes plus interest that has accrued to the time of payment and a proportionate part of the advertising fee to be determined by the tax collector. Thereafter, the tax collector shall delete that parcel from the advertisement, but if he fails to do so he shall not be liable for his failure to make the decision.

(e) Listing and Advertising in Wrong Name. No tax lien shall be void because the real property to which the lien attached was listed or advertised in the name of a person other than the person in whose name the property should have been listed for taxation if the property was in other respects correctly described on the abstract or in the advertisement.

(f) Wrongful Advertisement. Any tax collector or deputy tax collector who shall willfully advertise any tax lien knowing that the property is not subject to taxation or that the taxes advertised have been paid shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisoned for not more than 30 days, or both, and shall be required to pay the injured party all damages sustained in consequence."

Sec. 2. G.S. 105-370 is repealed.

Sec. 3. G.S. 105-371 is repealed.

Sec. 4. G.S. 105-372 is repealed.

Sec. 5. G.S. 105-373(a)(1) is rewritten to read:

"(1) Preliminary Report. Not later than the third Monday in June, the tax collector shall make a sworn report to the governing body of the taxing unit showing:

a. A list of the persons owning real property whose taxes remain unpaid and the principal amount due; and

b. A list of the persons not owning real property whose personal property taxes remain unpaid. (To this list the tax collector shall append his statement under oath that he has made diligent efforts to collect the taxes due from the persons listed out of their personal property and by other means available to him for collection, and he shall report such other information concerning these taxpayers as may be of interest to or required by the governing body, including a report of his efforts to make collection outside the taxing unit under the provisions of G.S. 105-364.)"

Sec. 6. G.S. 105-373(a)(3)c. is rewritten to read:

"c. The principal amount of taxes constituting liens on real property."

Sec. 7. G.S. 105-373(a)(4) is rewritten to read:

"(4) Disposition of Tax Receipts after Settlement. Uncollected taxes allowed as credits in the settlement prescribed in subdivision (a)(3), above, whether represented by tax liens held by the taxing unit or included in the list of insolvents, shall, for purposes of collection, be recharged to the tax collector or charged to some other person designated by the governing body of the taxing unit under statutory authority.

The person charged with uncollected taxes shall:

a. Give bond satisfactory to the governing body;

b. Receive the tax receipts and tax records representing the uncollected taxes;

c. Have and exercise all powers and duties conferred or imposed by law upon tax collectors; and

d. Receive compensation as determined by the governing body."

Sec. 8. G.S. 105-374(b) is rewritten to read:

"(b) Taxing units may proceed under this section, either on the original tax lien created by G.S. 105-355(a) or on the lien acquired at a tax lien sale held under former G.S. 105-369 before July 1, 1983, with or without a lien sale certificate; and the amount of recovery in either case shall be the same. To this end, it is hereby declared that the original attachment of the tax lien under G.S. 105-355(a) is sufficient to support a tax foreclosure action by a taxing unit, that the issuance of a lien sale certificate to the taxing unit for lien sales held before July 1, 1983, is a matter of convenience in record keeping within the discretion of the governing body of the taxing unit, and that issuance of such certificates is not a prerequisite to perfection of the tax lien."

Sec. 9. G.S. 105-375(b) is amended by striking out the word "sale" in line 3 and inserting in lieu thereof the word "advertisement".

Sec. 10. G.S. 105-394(6) is rewritten to read:

"(6) The failure of the collector to advertise any tax lien."

Sec. 11. G.S. 105-394(7) is repealed.

Sec. 12. This act shall not affect the validity of any tax lien sale held before July 1, 1983.

Sec. 13. Anything in this act to the contrary notwithstanding, any person, firm, or corporation who purchased or took assignment of a tax lien sale certificate before July 1, 1983, pursuant to statutes amended or repealed by this act may initiate a foreclosure action under G.S. 105-374 no earlier than six months after the date of the original lien sale.

Sec. 14. All references in this act to portions of Chapter 105 of the General Statutes of North Carolina refer to the same as contained in 1979 Replacement Volume 3D, the 1981 Cumulative Supplement thereto, and 1982 Interim Supplement.

Sec. 15. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1393 CHAPTER 809

AN ACT TO REWRITE THE GASTONIA POLICEMEN'S SUPPLEMENTARY PENSION FUND ACT.

The General Assembly of North Carolina enacts:

Section 1. Sections 2 through 6 of Chapter 979, Session Laws of 1965, are rewritten to read:

"Sec. 2. All funds and property owned by, invested by, or held in behalf of, the Gastonia Policeman's Supplementary Pension Fund shall continue to be the property of the Gastonia Policeman's Supplementary Pension Fund, said fund to be administered by a Board of Trustees composed of the following: The Chief of the Police Department of the City of Gastonia, the Commander of Operations of the Police Department of the City of Gastonia, and the Finance Officer of the City of Gastonia. The Board of Trustees is to be assisted by a Secretary, who will be the Secretary of the Chief of the Police Department of the City of Gastonia.

"Sec. 3. Any person who is a full-time paid member of the Gastonia Police Department, as shown by the records of the City of Gastonia, at the time of the ratification of this act, or any person who shall become such a full-time paid member, or any person who, as of July 1, 1955, was a full-time paid member of the Gastonia Police Department, or any person who, prior to the ratification of this act, was eligible for benefits from the Gastonia Policeman's Supplementary Pension Fund immediately prior to the ratification of this act, or any member of the Board of Trustees, or the Secretary of the Gastonia Policeman's Supplementary Pension Fund shall be eligible for benefits from the said fund provided such person has been retired as an employee of the City of Gastonia under the provisions of the Law Enforcement Officers' Benefit and Retirement Fund or the North Carolina Local Governmental Employees' Retirement System; and provided further that no member of the Board of Trustees or of the Police Department or the Secretary shall be eligible for benefits from the Gastonia Policeman's Supplementary Pension Fund unless he has been a member of the Board of Trustees or the Secretary or a member of the Gastonia Police Department for a period of 15 years, or if a member of the Board of Trustees, the Secretary, or a member of the Police Department, has served for 10 years or more and becomes disabled, he may be retired within a period of not less than 30 days or more than 90 days following a medical examination of such member by a physician or physicians appointed by the City Council of Gastonia;

upon certification of such physician or physicians that the member is mentally or physically permanently incapacitated for the further performance of duty, such member may be retired and may receive benefits of the retirement fund herein provided for according to the rules and regulations of this act and the Board of Trustees.

"Sec. 4. Any member of the Board of Trustees of the Gastonia Policeman's Supplementary Pension Fund, the Secretary, or any full-time paid member of said Police Department who retires or is retired under the provisions of this act shall receive monthly for the remainder of his life from the Gastonia Policeman's Supplementary Pension Fund, so long as funds are available, an amount equal to two percent (2%) for each five years of service, or major portion thereof, not to exceed fourteen percent (14%) of his average monthly salary for the three highest salaried years while employed by the City of Gastonia or the Gastonia Police Department.

"Sec. 5. Any member of the Board of Trustees of the Gastonia Policeman's Supplementary Pension Fund and/or the Secretary of the Chief of Police of the City of Gastonia shall be Treasurer and Custodian of the said fund and shall pay the beneficiary thereof on the first day of each and every month any monies in his possession that such beneficiaries may be entitled to under the provisions of this act.

"Sec. 6. Any member of the Board of Trustees of the Gastonia Policeman's Supplementary Pension Fund and/or the Secretary of the Chief of Police of the City of Gastonia, as Custodian of the Gastonia Policeman's Supplementary Pension Fund shall be required by the City Council of Gastonia to give bond for the faithful performance of his duties and the premiums on said bond shall be paid out of the Gastonia Policeman's Supplementary Pension Fund."

Sec. 2. Section 13 of Chapter 979, Session Laws of 1965, is repealed.

Sec. 3. Section 14 of Chapter 979, Session Laws of 1965, is amended by deleting the words "Workmen's Compensation" both times they appear and inserting in lieu thereof in both places the words "Workers' Compensation".

Sec. 4. None of the provisions of this act shall create an additional liability for the Gastonia Policemen's Supplementary Pension Fund unless sufficient current assets are available to the fund to fully pay for the additional liability.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1463 CHAPTER 810

AN ACT TO RESOLVE A CONFLICT BETWEEN THE PRIVATE PROTECTIVE SERVICES ACT AS AMENDED BY THE 1983 GENERAL ASSEMBLY AND THE ALARM SYSTEMS LICENSING ACT AS ENACTED BY THE 1983 GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74C-5(9) is amended by deleting "and alarm systems schools".

Sec. 2. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 1464 CHAPTER 811

AN ACT TO AMEND CHAPTER 758 OF THE SESSION LAWS OF 1983 REGARDING THE APPLICATION OF THAT CHAPTER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 758 of the Session Laws of 1983 is amended by adding a new Section 5 in lieu of the present Section 5, as follows:

"Sec. 5. This act is effective August 1, 1983, and shall apply only when the action for absolute divorce is filed on or after that date."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

H. B. 148 CHAPTER 812

AN ACT TO INCREASE THE INTEREST RATE PAID ON HIGHWAY CONDEMNATION JUDGMENTS TO CONFORM TO THE LEGAL INTEREST RATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-113 is amended by deleting: "rate of 6% per annum" and substituting: "legal rate as provided in G.S. 24-1".

Sec. 2. This act shall become effective 10 days after ratification.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 202 CHAPTER 813

AN ACT TO CLARIFY THE PROVISIONS FOR CERTIFICATION OF LOCAL TAXING OFFICIALS AND TO PROVIDE A CONTINUING EDUCATION PROGRAM FOR ALL PERSONS ENGAGED IN THE APPRAISAL OF PROPERTY FOR TAXATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-289(d) is hereby rewritten to read as follows:

"(d) In exercising general and specific supervision over the valuation and taxation of property, the Department shall provide the following:

(1) a continuing program of education and training for county and municipal tax officials in the conduct of their duties;

(2) a program for testing the qualifications of county assessors and other persons engaged in the appraisal of property for the county;

(3) a certification program for county assessors and other persons engaged in the appraisal of property for the county.

The Department shall promulgate regulations to carry out its duties under this subsection."

Sec. 2. G.S. 105-294 is hereby rewritten to read as follows:

"(a) Appointment. Persons occupying the position of county assessor on July 1, 1983, shall continue in office until the first Monday in July, 1983. At its first regular meeting in July, 1983, and every two years or four years thereafter, as appropriate, the board of county commissioners of each county shall appoint a county assessor to serve a term of not less than two nor more than four years; provided, however, that no person shall be eligible for initial appointment to a

term of more than two years unless such person is deemed to be qualified as provided in subsection (b) of this section or has been certified by the Department of Revenue as provided in subsection (c) of this section. The board of commissioners may remove the assessor from office during his term for good cause after giving him notice in writing and an opportunity to appear and be heard at a public session of the board. Whenever a vacancy occurs in this office, the board of county commissioners shall appoint a qualified person to serve as county assessor for the period of the unexpired term.

(b) Persons who held the position of tax supervisor on July 1, 1971, and continue to hold the position, and persons who have been certified for appointment as tax supervisor by the Department of Revenue between July 1, 1971, and July 1, 1983, are deemed to be qualified to serve as county assessor. Any other person selected to serve as county assessor must meet the following requirements:

(1) be at least 21 years of age as of the date of appointment;

(2) hold a high school diploma or certificate of equivalency, or in the alternative, have five years employment experience in a vocation which is reasonably related to the duties of a county assessor;

(3) within two years of the date of appointment, achieve a passing score in courses of instruction approved by the Department of Revenue covering the following topics:

a. The laws of North Carolina governing the listing, appraisal, and assessment of property for taxation;

b. The theory and practice of estimating the fair market value of real property for ad valorem tax purposes;

c. The theory and practice of estimating the fair market value of tangible and intangible personal property for ad valorem tax purposes; and

d. property assessment administration.

(4) Upon completion of the required four courses, achieve a passing grade in a comprehensive examination in property tax administration conducted by the Department of Revenue.

(c) Certification. Persons meeting all of the requirements of this section shall be certified by the Department of Revenue. From the date of appointment until the date of certification, persons appointed to serve as county assessor are deemed to be serving in an acting capacity. Any person who fails to qualify within two years after the date of initial appointment shall not be eligible for reappointment until all of the requirements have been met.

(d) In order to retain the position of county assessor, every person serving as county assessor, including those persons deemed to be qualified under the provisions of this act, shall, in each period of 24 months, attend at least 30 hours of instruction in the appraisal or assessment of property as provided in regulations of the Department of Revenue.

(e) The compensation and expenses of the county assessor shall be determined by the board of county commissioners.

(f) Alternative to separate office of county assessor. Pursuant to Act VI, Section 9 of the North Carolina Constitution, the office of county assessor is hereby declared to be an office that may be held concurrently with any other appointive or elective office except that of member of the board of county commissioners."

Sec. 3. G.S. 105-296(b) is hereby rewritten to read as follows:

"(b) Within budgeted appropriations, he or she shall employ listers, appraisers, and clerical assistants necessary to carry out the listing, appraisal, assessing, and billing functions required by law. The assessor may allocate responsibility among such employees by territory, by subject matter, or on any other reasonable basis. Each person employed by the assessor as a real property appraiser or personal property appraiser shall during the first year of employment and at least every other year thereafter attend a course of instruction in his or her respective area of work. At the end of the first year of their employment, such persons shall also achieve a passing score on a comprehensive examination in property tax administration conducted by the Department of Revenue."

Sec. 4. G.S. 105-299 is hereby rewritten to read as follows:

"§ 105-299. *Employment of experts.*—The board of county commissioners may employ appraisal firms, mapping firms or other persons or firms having expertise in one or more of the duties of the assessor to assist him or her in the performance of such duties. Any person employed by an appraisal firm whose duties include the appraisal of property for the county shall be required to demonstrate that he or she is qualified to carry out such duties by achieving a passing grade on a comprehensive examination in the appraisal of property administered by the Department of Revenue. In the employment of such firms, primary consideration shall be given to the firms registered with the Department of Revenue pursuant to the provisions of G.S. 105-289(i). Contracts for the employment of such firms or persons shall be deemed to be contracts for personal services and shall not be subject to the provisions of Article 8, Chapter 143, of the General Statutes."

Sec. 5. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 785 CHAPTER 814

AN ACT TO BE KNOWN AS THE NORTH CAROLINA TIME SHARE ACT AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 93A of the General Statutes is hereby amended by adding a new Article thereto as follows:

"Article 4. Time Shares.

"§ 93A-39. *Title.*—This Article shall be known and may be cited as the 'North Carolina Time Share Act'.

"§ 93A-40. *Registration required of time share projects; real estate salesmen license required.*—(a) From and after July 1, 1984, it shall be unlawful for any person in this State to engage or assume to engage in the business of a time share salesman without first obtaining a real estate broker or salesman license issued by the North Carolina Real Estate Commission under the provisions of Article I of this Chapter, and it shall be unlawful for a time share developer to sell or offer to sell a time share located in this State without first obtaining a certificate of registration for the time share project to be offered for sale issued by the North Carolina Real Estate Commission under the provisions of this Article.

"§ 93A-41. *Definitions.*—When used in this Article, unless the context otherwise requires, the term:

(1) 'Commission' means the North Carolina Real Estate Commission;

(2) 'Developer' means any person or entity which creates or is engaged in the business of selling its own time shares and shall include any person or entity who controls, is controlled by, or is in common control with the developer which is engaged in creating or selling time shares for the developer;

(3) 'Enrolled' means paid membership in exchange programs or membership in an exchange program evidenced by written acceptance or confirmation of membership;

(4) 'Exchange company' means any person operating an exchange program;

(5) 'Exchange program' means any opportunity or procedure for the assignment or exchange of time shares among purchasers in the same or other time share project;

(6) 'Managing agent' means a person who undertakes the duties, responsibilities, and obligations of the management of a time share program;

(7) 'Person' means one or more natural persons, corporations, partnerships, associations, trusts, other entities, or any combination thereof;

(8) 'Purchaser' means any person other than a developer or lender who owns or acquires an interest or proposes to acquire an interest in a time share;

(9) 'Time share' means a right to occupy a unit or any of several units during five or more separated time periods over a period of at least five years, including renewal options, whether or not coupled with a freehold estate or an estate for years in a time share project or a specified portion thereof, including, but not limited to, a vacation license, prepaid hotel reservation, club membership, limited partnership, or vacation bond;

(10) 'Time share program' means any arrangement for time shares whereby real property has been made subject to a time share;

(11) 'Time share project' means any real property that is subject to a time share program;

(12) 'Time share salesman' means a person who sells or offers to sell on behalf of a developer a time share to a purchaser; and

(13) 'Time share unit' or 'unit' means the real property or real property improvement in a project which is divided into time shares and designated for separate occupancy and use.

"§ 93A-42. *Time shares deemed real estate.*—(a) A time share is deemed to be an interest in real estate, and shall be governed by the law of this State relating to real estate.

(b) A purchaser of a time share may in accordance with G.S. 47-18 register the instrument by which he acquired his interest and upon such registration shall be entitled to the protection provided by Chapter 47 of the General Statutes for the recordation of other real property instruments. A document transferring or encumbering a time share shall not be rejected for recordation because of the nature or duration of that estate, provided all other requirements necessary to make an instrument recordable are complied with.

"§ 93A-43. *Partition.*—When a time share is owned by two or more persons as tenants in common or as joint tenants either may seek a partition by sale of that interest but no purchaser of a time share may maintain an action for partition by sale or in kind of the unit in which such time share is held.

"§ 93A-44. *Public offering statement.*—Each developer shall fully and conspicuously disclose in a public offering statement:

(1) The total financial obligation of the purchaser, which shall include the initial purchase price and any additional charges to which the purchaser may be subject;

(2) Any person who has or may have the right to alter, amend or add to charges to which the purchaser may be subject and the terms and conditions under which such charges may be imposed;

(3) The nature and duration of each agreement between the developer and the person managing the time share program or its facilities;

(4) The date of availability of each amenity and facility of the time share program when they are not completed at the time of sale of a time share;

(5) The specific term of the time share;

(6) The purchaser's right to cancel within five days of execution of the contract and how that right may be exercised under G.S. 93A-45;

(7) A statement that under North Carolina law an instrument conveying a time share must be recorded in the Register of Deeds Office to protect that interest; and

(8) Any other information which the Commission may by rule require.

The public offering statement shall also contain a one page cover containing a summary of the text of the statement.

"§ 93A-45. *Purchaser's right to cancel; escrow; violation.*—(a) A developer shall, before transfer of a time share and no later than the date of any contract of sale, provide a prospective purchaser with a copy of a public offering statement containing the information required by G.S. 93A-44. The contract of sale is voidable by the purchaser for five days after the execution of the contract. The contract shall conspicuously disclose the purchaser's right to cancel under this subsection and how that right may be exercised. An instrument transferring a time share shall not be recorded until five days after the execution of the contract of sale.

(b) A purchaser may elect to cancel within the time period set out in subsection (a) by hand delivering or by mailing notice to the developer or the time share salesman. Cancellation under this section is without penalty and upon receipt of the notice all payments made prior to cancellation must be refunded immediately.

(c) Any payments received by a time share developer or time share salesman in connection with the sale of a time share shall be immediately deposited by such developer or salesman in a trust or escrow account in an insured bank or savings and loan association in North Carolina and shall remain in such account for 10 days or cancellation by the purchaser, whichever occurs first. Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the developer. In lieu of such escrow requirements, the Commission shall have the authority to accept, in its discretion, alternative financial assurances adequate to protect the purchaser's interest during the contract cancellation period, including but not limited to a surety bond, corporate bond, cash deposit or irrevocable letter of credit in an amount equal to the escrow requirements.

(d) If a developer fails to provide a purchaser to whom a time share is transferred with the statement as required by subsection (a), the purchaser, in addition to any rights to damages or other relief, is entitled to receive from the

developer an amount equal to ten percent (10%) of the sales price of the time share not to exceed three thousand dollars ($3,000). A receipt signed by the purchaser stating that he has received the statement required by subsection (a) is *prima facie* evidence of delivery of such statement.

"§ 93A-46. *Prizes.*—An advertisement of a time share which includes the offer of a prize or other inducement shall fully comply with the provisions of Chapter 75 of the General Statutes.

"§ 93A-47. *Time shares proxies.*—No proxy, power of attorney or similar device given by the purchaser of a time share regarding the management of the time share program or its facilities shall exceed one year in duration, but the same may be renewed from year to year.

"§ 93A-48. *Exchange programs.*—(a) If a purchaser is offered the opportunity to subscribe to any exchange program, the developer shall, except as provided in subsection (b), deliver to the purchaser, prior to the execution of (i) any contract between the purchaser and the exchange company, and (ii) the sales contract, at least the following information regarding such exchange program:

(1) The name and address of the exchange company;

(2) The names of all officers, directors, and shareholders owning five percent (5%) or more of the outstanding stock of the exchange company;

(3) Whether the exchange company or any of its officers or directors has any legal or beneficial interest in any developer or managing agent for any time share project participating in the exchange program and, if so, the name and location of the time share project and the nature of the interest;

(4) Unless the exchange company is also the developer a statement that the purchaser's contract with the exchange company is a contract separate and distinct from the sales contract;

(5) Whether the purchaser's participation in the exchange program is dependent upon the continued affiliation of the time share project with the exchange program;

(6) Whether the purchaser's membership or participation, or both, in the exchange program is voluntary or mandatory;

(7) A complete and accurate description of the terms and conditions of the purchaser's contractual relationship with the exchange company and the procedure by which changes thereto may be made;

(8) A complete and accurate description of the procedure to qualify for and effectuate exchanges;

(9) A complete and accurate description of all limitations, restrictions, or priorities employed in the operation of the exchange program, including, but not limited to, limitations on exchanges based on seasonality, unit size, or levels of occupancy, expressed in boldfaced type, and, in the event that such limitations, restrictions, or priorities are not uniformly applied by the exchange program, a clear description of the manner in which they are applied;

(10) Whether exchanges are arranged on a space available basis and whether any guarantees of fulfillment of specific requests for exchanges are made by the exchange program;

(11) Whether and under what circumstances an owner, in dealing with the exchange company, may lose the use and occupancy of his time share in

any properly applied for exchange without his being provided with substitute accommodations by the exchange company;

(12) The expenses, fees or range of fees for participation by owners in the exchange program, a statement whether any such fees may be altered by the exchange company, and the circumstances under which alterations may be made;

(13) The name and address of the site of each time share project or other property which is participating in the exchange program;

(14) The number of units in each project or other property participating in the exchange program which are available for occupancy and which qualify for participation in the exchange program, expressed within the following numerical groupings, 1-5, 6-10, 11-20, 21-50 and 51, and over;

(15) The number of owners with respect to each time share project or other property which are eligible to participate in the exchange program expressed within the following numerical groupings, 1-100, 101-249, 250-499, 500-999, and 1,000 and over, and a statement of the criteria used to determine those owners who are currently eligible to participate in the exchange program;

(16) The disposition made by the exchange company of time shares deposited with the exchange program by owners eligible to participate in the exchange program and not used by the exchange company in effecting exchanges;

(17) The following information which, except as provided in subsection (b) below, shall be independently audited by a certified public accountant in accordance with the standards of the Accounting Standards Board of the American Institute of Certified Public Accountants and reported for each year no later than July 1, of the succeeding year:

a. The number of owners enrolled in the exchange program and such numbers shall disclose the relationship between the exchange company and owners as being either fee paying or gratuitous in nature;

b. The number of time share projects or other properties eligible to participate in the exchange program categorized by those having a contractual relationship between the developer or the association and the exchange company and those having solely a contractual relationship between the exchange company and owners directly;

c. The percentage of confirmed exchanges, which shall be the number of exchanges confirmed by the exchange company divided by the number of exchanges properly applied for, together with a complete and accurate statement of the criteria used to determine whether an exchange request was properly applied for;

d. The number of time shares or other intervals for which the exchange company has an outstanding obligation to provide an exchange to an owner who relinquished a time share or interval during the year in exchange for a time share or interval in any future year; and

e. The number of exchanges confirmed by the exchange company during the year; and

(18) A statement in boldfaced type to the effect that the percentage described in subparagraph (17)c. of subsection (a) is a summary of the exchange requests entered with the exchange company in the period

reported and that the percentage does not indicate a purchaser's/owner's probabilities of being confirmed to any specific choice or range of choices, since availability at individual locations may vary.

The purchaser shall certify in writing to the receipt of the information required by this subsection and any other information which the Commissioners may by rule require.

(b) The information required by subdivisions (a), (2), (3), (13), (14), (15), and (17) shall be accurate as of December 31 of the year preceding the year in which the information is delivered, except for information delivered within the first 180 days of any calendar year which shall be accurate as of December 31 of the year two years preceding the year in which the information is delivered to the purchaser. The remaining information required by subsection (a) shall be accurate as of a date which is no more than 30 days prior to the date on which the information is delivered to the purchaser.

(c) In the event an exchange company offers an exchange program directly to the purchaser or owner, the exchange company shall deliver to each purchaser or owner, concurrently with the offering and prior to the execution of any contract between the purchaser or owner and the exchange company the information set forth in subsection (a) above. The requirements of this paragraph shall not apply to any renewal of a contract between an owner and an exchange company.

(d) All promotional brochures, pamphlets, advertisements, or other materials disseminated by the exchange company to purchasers in this State which contain the percentage of confirmed exchanges described in (a)(17)c. must include the statement set forth in (a)(18).

"§ 93A-49. *Service of process on exchange company.*—Any exchange company offering an exchange program to a purchaser shall be deemed to have made an irrevocable appointment of the Commission to receive service of lawful process in any proceeding against the exchange company arising under this Article.

"§ 93A-50. *Securities laws apply.*—The North Carolina Securities Act, Chapter 78A, shall also apply, in addition to the laws relating to real estate, to time shares deemed to be investment contracts or to other securities offered with or incident to a time share; provided, in the event of such applicability of the North Carolina Securities Act, any offer or sale of time shares registered under this Article shall not be subject to the provisions of G.S. 78A-24 and any real estate broker or salesman registered under Article 1 of this Chapter shall not be subject to the provisions of G.S. 78A-36.

"§ 93A-51. *Rule-making authority.*—The Commission shall have the authority to adopt rules and regulations that are not inconsistent with the provisions of this Article and the General Statutes of North Carolina. The Commission may prescribe forms and procedures for submitting information to the Commission.

"§ 93A-52. *Application for registration of time share project; denial of registration; renewal; reinstatement; and termination of developer's interest.*—(a) Prior to the offering in this State of any time share located in this State, the developer of the time share project shall make written application to the Commission for the registration of the project. The application shall be accompanied by a fee in an amount fixed by the Commission but not to exceed fifteen hundred dollars ($1500), and shall include a description of the project,

copies of proposed time share instruments including public offering statements, sale contracts, deeds, and other documents referred to therein, information pertaining to any marketing or managing entity to be employed by the developer for the sale of time shares in a time share project or the management of the project, information regarding any exchange program available to the purchaser, an irrevocable appointment of the Commission to receive service of any lawful process in any proceeding against the developer or the developer's salesmen arising under this Article, and such other information as the Commission may by rule require.

Upon receipt of a properly completed application and fee and upon a determination by the Commission that the sale and management of the time shares in the time share project will be directed and conducted by persons of good moral character, the Commission shall issue to the developer a certificate of registration authorizing the developer to offer time shares in the project for sale. The Commission shall within 15 days after receipt of an incomplete application, notify the developer by mail that the Commission has found specified deficiencies, and shall, within 45 days after the receipt of a properly completed application, either issue the certificate of registration or notify the developer by mail of any specific objections to the registration of the project. The certificate shall be prominently displayed in the office of the developer on the site of the project.

The developer shall promptly report to the Commission any and all changes in the information required to be submitted for the purpose of the registration. The developer shall also immediately furnish the Commission complete information regarding any change in its interest in a registered time share project. In the event a developer disposes of, or otherwise terminates its interest in a time share project, the developer shall certify to the Commission in writing that its interest in the time share project is terminated and shall return to the Commission for cancellation the certificate of registration.

(b) In the event the Commission finds that there is substantial reason to deny the application for registration as a time share project, the Commission shall notify the applicant that such application has been denied and shall afford the applicant an opportunity for a hearing before the Commission to show cause why the application should not be denied. In all proceedings to deny a certificate of registration, the provisions of Chapter 150A of the General Statutes shall be applicable.

(c) The acceptance by the Commission of an application for registration shall not constitute the approval of its contents or waive the authority of the Commission to take disciplinary action as provided by this Article.

(d) All certificates of registration granted and issued by the Commission under the provisions of this Article shall expire on the 30th day of June following issuance thereof, and shall become invalid after such date unless reinstated. Renewal of such certificate may be effected at any time during the month of June preceding the date of expiration of such registration upon proper application to the Commission and by the payment of a renewal fee fixed by the Commission but not to exceed seven hundred fifty dollars ($750.00) for each time share project. The developer shall, when making application for renewal, also provide a copy of the report required in G.S. 93A-48. Each certificate reinstated after the expiration date thereof shall be subject to a late filing fee of fifty dollars ($50.00) in addition to the required renewal fee. In the event a time

share developer fails to reinstate the registration within 12 months after the expiration date thereof, the Commission may, in its discretion, consider the time share project as not having been previously registered, and thereby subject to the provisions of this Article relating to the issuance of an original certificate. Duplicate certificates may be issued by the Commission upon payment of a fee of one dollar ($1.00) by the registrant developer.

"§ 93A-53. *Register of applicants; roster of registrants; registered projects; financial report to Secretary of State.*—(a) The Executive Director of the Commission shall keep a register of all applicants for certificates of registration, showing for each the date of application, name, business address, and whether the certificate was granted or refused.

(b) The Executive Director of the Commission shall also keep a current roster showing the name and address of all time share projects registered with the Commission. The roster shall be kept on file in the office of the Commission and be open to public inspection.

(c) On or before the first day of September of each year, the Commission shall file with the Secretary of State a copy of the roster of time share projects registered with the Commission and a report containing a complete statement of income received by the Commission in connection with the registration of time share projects for the preceding fiscal year ending June 30th attested by the affidavit of the Executive Director of the Commission. The report shall be made a part of those annual reports required under the provisions of G.S. 93A-5.

"§ 93A-54. *Disciplinary action by Commission.*—(a) The Commission shall have power to take disciplinary action. Upon its own motion, or on the verified complaint of any person, the Commission may investigate the actions of any time share salesman or any developer of a time share project registered under this Article, or any other person or entity who shall assume to act in such capacity. If the Commission finds probable cause that a time share salesman or developer has violated any of the provisions of this Article, the Commission may hold a hearing on the allegations of misconduct. All such hearings shall be conducted in accordance with the provisions of Chapter 150A of the General Statutes.

The Commission shall have power to suspend or revoke at any time a real estate license issued to a time share salesman or a certificate of registration of a time share project issued to a developer, or to reprimand or censure such salesman or developer, or to fine such developer in the amount of five hundred dollars ($500.00) for each violation of this Article, if, after a hearing, the Commission adjudges either the salesman or developer to be guilty of:

(1) Making any willful or negligent misrepresentation or any willful or negligent omission of material fact about any time share or time share project;

(2) Making any false promises of a character likely to influence, persuade, or induce;

(3) Pursuing a course of misrepresentation or making of false promises through agents, salesmen, advertising or otherwise;

(4) Failing, within a reasonable time, to account for all money received from others in a time share transaction, and failing to remit such monies as may be required in G.S. 93A-45 of this Article;

(5) Acting as a time share salesman or time share developer in a manner as to endanger the interest of the public;

(6) Paying a commission, salary, or other valuable consideration to any person for acts or services performed in violation of this Article;

(7) Any other conduct which constitutes improper, fraudulent, or dishonest dealing;

(8) Performing or undertaking to perform any legal service as set forth in G.S. 84-2.1, or any other acts not specifically set forth in that section;

(9) Failing to deposit and maintain in a trust or escrow account in an insured bank or savings and loan association in North Carolina all money received from others in a time share transaction as may be required in G.S. 93A-45 of this Article;

(10) Failing to deliver to a purchaser a public offering statement containing the information required by G.S. 93A-44 and any other disclosures that the Commission may by regulation require;

(11) Failing to comply with the provisions of Chapter 75 of the General Statutes in the advertising or promotion of time shares for sale, or failing to assure such compliance by persons engaged on behalf of a developer;

(12) Failing to comply with the provisions of G.S. 93A-48 in furnishing complete and accurate information to purchasers concerning any exchange program which may be offered to such purchaser;

(13) Making any false or fraudulent representation on an application for registration; or

(14) Violating any rule or regulation promulgated by the Commission.

(b) Following a hearing, the Commission shall also have power to suspend or revoke any certificate of registration issued under the provisions of this Article or to reprimand or censure any developer when the registrant has been convicted or has entered a plea of guilty or no contest upon which final judgment is entered by a court of competent jurisdiction in this State, or any other state, of the criminal offenses of: embezzlement, obtaining money under false pretense, fraud, forgery, conspiracy to defraud, or any other offense involving moral turpitude which would reasonably affect the developer's performance in the time share business.

(c) The Commission may appear in its own name in superior court in actions for injunctive relief to prevent any person or entity from violating the provisions of this Article or rules promulgated by the Commission. The superior court shall have the power to grant these injunctions even if criminal prosecution has been or may be instituted as a result of the violations, or regardless of whether the person or entity has been registered by the Commission.

(d) Each developer shall maintain or cause to be maintained complete records of every time share transaction including records pertaining to the deposit, maintenance, and withdrawal of money required to be held in a trust or escrow account, or as otherwise required by the Commission, under G.S. 93A-45 of this Article. The Commission may inspect these records periodically without prior notice and may also inspect these records whenever the Commission determines that they are pertinent to an investigation of any specific complaint against a registrant.

"§ 93A-55. *Private enforcement.*—The provisions of the Article shall not be construed to limit in any manner the right of a purchaser or other person injured by a violation of this Article to bring a private action.

"§ 93A-56. *Penalty for violation of Article.*—Any person violating the provisions of this Article shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be punished by a fine or imprisonment, or by both fine and imprisonment, in the discretion of the court.

"§ 93A-57. *Release of liens.*—(a) Prior to any recordation of the instrument transferring a time share the developer shall record or furnish to the purchaser a release of all liens affecting that time share or shall provide a surety bond or insurance against the lien from a company acceptable to the Commission as provided for liens on real estate in this State, or such underlying lien document shall contain a provision wherein the lien holder subordinates its rights to that of a time share purchaser who fully complies with all of the provisions and terms of the contract of sale.

(b) Unless a time share owner or a time share owner who is his predecessor in title agree otherwise with the lienor, if a lien other than a mortgage or deed of trust becomes effective against more than one time share in a time share project, any time share owner is entitled to a release of his time share from a lien upon payment of the amount of the lien attributable to his time share. The amount of the payment must be proportionate to the ratio that the time share owner's liability bears to the liabilities of all time share owners whose interests are subject to the lien. Upon receipt of payment, the lien holder shall promptly deliver to the time share owner a release of the lien covering that time share. After payment, the managing agent may not assess or have a lien against that time share for any portion of the expenses incurred in connection with that lien."

Sec. 2. Sections 93A-51, 93A-52 and 93A-53 of this act shall become effective January 1, 1984, and all additional sections shall become effective July 1, 1984.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 945 CHAPTER 815

AN ACT CONCERNING THE REPORTING OF CERTAIN TRANSACTIONS IN UNITED STATES CURRENCY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes of North Carolina is amended to add a new section as follows:

"§ 105-251.1. *Reporting of certain currency transactions.*—(a) The purpose of this provision is to require certain reports and records of transactions involving United States currency where such reports have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

(b) As used in this section, the term:

(1) 'Secretary' means the Secretary of the North Carolina Department of Revenue.

(2) 'Currency' means currency and coin of the United States.

(3) 'Department' means the Department of Revenue of the State of North Carolina.

(4) 'Financial institution' means:

a. A State or national bank;

b. A trust company;

c. A building and loan association, State savings and loan association, or a federal savings and loan association;

d. A State or federal credit union; or

e. Any other corporation doing business in this State pursuant to the provisions of G.S. 53-1, *et. seq.*

(5) 'Person' means natural persons, partnerships, trusts, estates, associations, corporations, and all entities cognizable as legal personalities.

(c)

(1) Every financial institution shall keep a record of currency transactions in excess of ten thousand dollars ($10,000) and shall file with the Department within 15 days of the date of such transaction, pursuant to the regulations prescribed by the Secretary, a complete report of such currency transactions in excess of ten thousand dollars ($10,000).

(2) The reporting requirements set out in subsection (1) above may be fulfilled by providing to the Department a true and exact copy of all reports of currency transactions in excess of ten thousand dollars ($10,000) reported to the Commissioner of the Internal Revenue Service pursuant to 31 U.S.C. § 1081 and 31 C.F.R. § 103, as those various statutes and regulations were in effect on January 1, 1983.

(d) The Secretary shall prescribe such regulations as he may deem appropriate to carry out the purposes of this section and to provide for exemption of such transactions as the Secretary determines are clearly of a legitimate nature for which mandatory reporting would serve no useful purpose.

(e) The North Carolina State Bureau of Investigation shall, through designation by the Attorney General pursuant to G.S. 105-259, have access to and shall be authorized to inspect and copy any reports filed with the Department pursuant to this section.

(f)

(1) For each willful violation of this Article, the Secretary may assess upon any financial institution and upon any director, officer, or employee thereof who willfully participates in the violation a civil penalty not exceeding one thousand dollars ($1,000).

(2) In the event of the failure of any person to pay any penalty assessed under this section, a civil action for recovery thereof may, in the discretion of the Secretary, be brought in the name of the State of North Carolina.

(g) Except as provided in subsection (1) below, whoever willfully violates any provision of this Article shall be guilty of a misdemeanor.

(1) Whoever willfully violates any provision of this Article where the violation is:

a. Committed in furtherance of the commission of any other violation of North Carolina law; or

b. Committed as part of a pattern of illegal activity involving transactions exceeding one hundred thousand dollars ($100,000) in any 12-month period

shall be guilty of a Class I felony and, upon conviction thereof, shall be punished by a fine of not more than five hundred thousand dollars ($500,000) or by imprisonment, or both."

Sec. 2. All laws and parts of laws in conflict with this act are repealed.

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1028 CHAPTER 816

AN ACT TO ALLOW PRIVATE PEER REVIEW IN DOMICILIARY HOMES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 131D of the General Statutes is amended by inserting a new section to read:

"§ 131D-21.1. *Peer Review.*—It is not a violation of G.S. 131D-21(6) for medical records to be disclosed to a private peer review committee if:

(1) The peer review committee has been approved by the Department;

(2) The purposes of the peer review committee are to:

a. survey facilities to verify a high level of quality care through evaluation and peer assistance;

b. resolve written complaints in a responsible and professional manner; and

c. develop a basic knowledge of care and standards useful in establishing a means of measuring quality of care;

and

(3) The peer review committee keeps such records confidential."

Sec. 2. This act is effective October 1, 1983.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1117 CHAPTER 817

AN ACT TO AMEND THE NORTH CAROLINA SECURITIES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 78A-2(1) is rewritten to read:

"(1) 'Administrator' means the Secretary of State."

Sec. 2. G.S. 78A-2(2)d.1. as the same appears in Volume 2C of the General Statutes is amended by rewriting the first line to read:

"1. The security is exempted under subdivisions (1), (2), (3), (4), (7), (9), (10),".

Sec. 3. G.S. 78A-2(9) is amended by deleting the words "or issuer" in the first and third sentences of the subdivision and by deleting the second sentence in its entirety and by inserting the word "executive" between "partner," and "officer" in the third sentence.

Sec. 4. G.S. 78A-16(7) is amended by inserting the following language between "holding company" and "which is":

"of one of the foregoing".

Sec. 5. G.S. 78A-16(9) is amended by deleting the words "under the laws of this State or having its principal office in this State" and by adding at the end, before the semicolon, the words "provided, however, that the Administrator may by rule or order impose conditions upon this exemption either generally or in relation to specific securities or transactions".

Sec. 6. G.S. 78A-17(8) is amended by inserting the following language between "corporation" and the comma:

"which has a net worth in excess of one million dollars ($1,000,000) as determined by generally accepted accounting principles".

Sec. 7. G.S. 78A-17(10) is rewritten to read:

"(10) Any offer or sale of a preorganizational certificate or subscription if: (i) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber; (ii) no public advertising or solicitation is used in connection with the offer or sale; (iii) the number of subscribers does not exceed 10 and the number of offerees does not exceed 25; and (iv) no payment is made by any subscriber."

Sec. 8. G.S. 78A-36(b) is amended by deleting the words "or issuer" in the first, third, and fifth sentences thereof and by deleting the words "or a particular issuer" in the second sentence of the subsection.

Sec. 9. G.S. 78A-37(a) is amended by inserting the word "executive" between "partner," and "officer" in the last sentence of the subsection.

Sec. 10. G.S. 78A-37(d) is amended by inserting the words "to post surety bonds in amounts up to one hundred thousand dollars ($100,000)" between "dealers" and "and" in the first sentence of the subsection and by rewriting "twenty-five thousand dollars ($25,000)" in the third sentence as follows:

"one hundred thousand dollars ($100,000)".

Sec. 11. G.S. 78A-39 is amended by inserting the word "censure," between "suspension" and "cancellation" in the catch line.

Sec. 12. G.S. 78A-39(a), as the same appears in Volume 2C of the General Statutes, is amended by inserting the following language between "or revoke any registration" and "if he finds" in the second and fifty-first lines of the subsection:

"in whole or in part or restrict or limit as to any person, office, function, or activity or censure the registrant".

Sec. 13. G.S. 78A-39(a)(2)b. is amended by inserting the following language between "law" and the semicolon:

"or any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisors Act of 1940, or the Commodity Exchange Act".

Sec. 14. G.S. 78A-39(a) is further amended by deleting "30" in the last line of the subsection and inserting in lieu thereof "120".

Sec. 15. G.S. 78A-39(e) is amended by deleting "30" both times that it appears in the first sentence of the subsection and inserting in lieu thereof "90".

Sec. 16. G.S. 78A-40(c) is amended by inserting "censure," between the words "suspension," and "cancellation".

Sec. 17. G.S. 78A-45(a) is rewritten to read as follows:

"(a) This Chapter shall be administered by the Secretary of State. The Secretary of State as Administrator may delegate all or part of the authority under this Chapter to the Deputy Securities Administrator including, but not limited to, the authority to conduct hearings, make, execute and issue final agency orders and decisions. The Secretary of State may appoint such clerks and other assistants as may from time to time be needed."

Sec. 18. G.S. 78A-47 is amended by rewriting the catch line to read "Injunctions; cease and desist orders.", by designating the present section as subsection (a), and by adding a new subsection (b) to read:

"(b)(1) If the Administrator determines after giving notice of and opportunity for a hearing, that any person has engaged in or is about to engage in, any act or practice constituting a violation of any provision of this Chapter or any rule or order hereunder, he may order such person to cease and desist from such unlawful act or practice and take such affirmative action as in the judgment of the Administrator will carry out the purposes of this Chapter.

(2) If the Administrator makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under G.S. 78A-47(b)(1), the Administrator may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the Administrator shall promptly notify in writing the person subject to the order that such order has been entered, the reasons therefor, and that within 20 days after the receipt of a written request from such person the matter shall be set down for hearing to determine whether or not the order shall become permanent and final. If no hearing is requested and none is ordered by the Administrator, the order shall remain in effect until it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after giving notice of an opportunity for a hearing to the person subject to the order, shall by written findings of fact and conclusion of law, vacate, modify, or make permanent the order.

(3) No order under subsection (b), except an order issued pursuant to G.S. 78A-47(b)(2), may be entered without prior notice of an opportunity for hearing. The Administrator may vacate or modify an order under this subsection (b) upon his finding that the conditions which required such an order have changed and that it is in the public interest to so vacate or modify.

(4) A final order issued pursuant to the provisions of subsection (b) shall be subject to review as provided in G.S. 78A-48."

Sec. 19. The first sentence of G.S. 78A-48(a) is amended by deleting the words "any county" and inserting in lieu thereof "Wake County" and by deleting the words "within 60 days after the entry of the order" and inserting in lieu thereof "within 30 days after a written copy of the decision is served upon the person by personal service or by registered mail".

Sec. 20. G.S. 78A-56(a) is rewritten to read:

"(a) Any person who:

(1) Offers or sells a security in violation of G.S. 78A-10(b), 78A-24, or 78A-36(a), or of any rule or order under G.S. 78A-49(d) which requires the affirmative approval of sales literature before it is used, or of any condition imposed under G.S. 78A-27(d) or G.S. 78A-28(g), or

(2) Offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading (the purchaser not knowing of the untruth or omission), and who does not sustain the burden of proof that he did not know, and did not act in reckless disregard, of the untruth or omission,

is liable to the person purchasing the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with

interest at the legal rate from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it and interest at the legal rate as provided by G.S. 24-1 from the date of disposition."

Sec. 21. G.S. 78A-56(g)(1) is amended by deleting "six percent (6%) per year" and inserting in lieu thereof "at the legal rate as provided by G.S. 24-1".

Sec. 22. This act shall become effective upon ratification except for Section 5 which shall become effective on October 1, 1983.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1119 CHAPTER 818

AN ACT TO AMEND THE STATUTE RELATING TO PAYMENT AND PERFORMANCE BONDS FOR PUBLIC CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44A-26(a) is amended by rewriting the first three lines to read:

"§ 44A-26. *Bonds required.*—(a) When the total amount of construction contracts awarded for any one project exceeds thirty thousand dollars ($30,000) a performance and payment bond as set forth in (1) and (2) is required by the contracting body from any contractor with a contract more than fifteen thousand dollars ($15,000). In the discretion of the contracting body, a performance and payment bond may be required on any construction contract as follows:".

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1176 CHAPTER 819

AN ACT TO GIVE PUBLIC SCHOOLS EQUAL PRIORITY IN BORROWING LIBRARY FILMS.

The General Assembly of North Carolina enacts:

Section 1. A new sentence is added at the end of G.S. 125-2(4) to read:

"The public schools shall be given equal priority in borrowing all films which are available for circulation."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1189 **CHAPTER 820**

AN ACT TO REVISE PARTS OF CHAPTER 162A OF THE GENERAL STATUTES RELATING TO WATER AND SEWER AUTHORITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162A-6 is amended by the addition of a new subdivision to read:

"(14b) To adopt ordinances to regulate and control the discharge of sewage into any sewerage system owned or operated by the authority. Prior to the adoption of any such ordinance or any amendment to any such ordinance, the authority shall first pass a declaration of intent to adopt such ordinance or amendment. The declaration of intent shall describe the ordinance which it is proposed that the authority adopt. The declaration of intent shall be submitted to each governing body for review and comment. The authority shall consider any comment or suggestions offered by any governing body with respect to the proposed ordinance or amendment. Thereafter, the authority shall be authorized to adopt such ordinance or amendment to it at any time after 60 days following the submission of the declaration of intent to each governing body."

Sec. 2. Article 1 of Chapter 162A of the General Statutes is amended by adding a new section to read:

"§ 162A-9.1. *Adoption and enforcement of ordinances.*—(a) An authority shall have the same power as a city under G.S. 160A-175 to assess civil fines and penalties for violation of its ordinances; and, an authority may seek and recover injunctive relief to insure compliance with its ordinances as provided by this section.

(b) An ordinance may provide that its violation shall subject the offender to a civil penalty of not more than one thousand dollars ($1,000) per violation, to be recovered by the authority in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance. Any person assessed a civil penalty by the authority shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment of the civil penalty. If the person assessed fails to pay the amount of the assessment to the authority within 30 days after receipt of such notice, or such longer period, not to exceed 180 days, as the authority may specify, the authority may institute a civil action in the General Court of Justice of the county in which the violation occurred, or, in the discretion of the authority, in the General Court of Justice of the county in which the person has his or its principal place of business, to recover the amount of the assessment. The validity of the authority's action in assessing the violater may be appealed directly to the General Court of Justice in the county in which the violation occurred, or may be raised at any time in the action to recover the assessment. No failure to contest directly the validity of the authority's action in levying the assessment shall preclude the person assessed from later raising the issue of validity in any action to collect the assessment.

(c) An ordinance may provide that it may be enforced, and it may be enforced, by any appropriate equitable remedy issuing from a court of competent jurisdiction. In such cases, the General Court of Justice shall have jurisdiction and authority to issue such orders as may be appropriate to enforce

the ordinances of the authority, and it shall not be a defense to the application made by the authority therefor that there is an adequate remedy at law.

(d) Subject to the express terms of any ordinance, an ordinance adopted by the authority may be enforced by any one, all or a combination of the remedies authorized and prescribed by this section.

(e) An ordinance may provide, when appropriate, that each day's continuing violation thereof shall constitute and be a separate and distinct offense."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1201 CHAPTER 821

AN ACT TO CHANGE THE ELIGIBILITY REQUIREMENTS FOR USE-VALUE CLASSIFICATION OF AGRICULTURAL LAND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.3 is amended by adding a new subsection to read:

"(c) In addition, property may come within the classification described in subdivision (a)(1)or (2) above, if (1) it was appraised at its present use value pursuant to that section at the time title to the property passed to the present owner, and (2) at the time title to the property passed to the present owner he owned other property classified under subdivision (a)(1) or (2) above. Classification pursuant to this subsection shall not affect any liability for deferred taxes under G.S. 105-277.4(c) if such taxes were otherwise due at the time title passed to the present owner."

Sec. 2. This act shall be effective on January 1, 1984, and shall apply to tax years beginning on or after that date.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1343 CHAPTER 822

AN ACT TO PROTECT ARTISTS' RIGHTS IN ARTWORK ON CONSIGNMENT.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is added to the General Statutes to read:

"Chapter 25C.

"Artwork on Consignment.

"§ 25C-1. *Definitions.*—As used in this Chapter unless the context clearly requires otherwise:

(1) 'art dealer' means an individual, partnership, firm, association, or corporation that undertakes to sell a work of fine art created by someone else;

(2) 'artist' means the creator of a work of fine art;

(3) 'on consignment' means delivered to an art dealer for the purpose of sale or exhibition, or both, to the public by the art dealer; and

(4) 'work of fine art' means an original art work that is:

a. a visual rendition, including a painting, drawing, sculpture, mosaic, or photograph;

b. a work of calligraphy;

c. a work of graphic art, including an etching, lithograph, offset print, or silk screen;

d. a craft work in materials, including clay, textile, fiber, wood, metal, plastic, or glass; or

e. a work in mixed media, including a collage or a work consisting of any combination of works included in this subdivision.

"§ 25C-2. *Interest of art dealer who accepts works of fine art on consignment.*—If an art dealer accepts a work of fine art on a fee, commission, or other compensation basis on consignment from the artist:

(1) the art dealer is, with respect to that work of fine art, the bailee of the artist;

(2) the work of fine art is bailment property in which the art dealer has no legal or equitable interest until the work is sold to a bona fide third party; and

(3) the proceeds of the sale of the work of fine art are bailment property in which the art dealer has no legal or equitable interest until the amount due the artist from the sale, minus the agreed commission, is paid.

"§ 25C-3. *Status of works of fine art subsequently purchased by art dealer for his own account.*—Notwithstanding the subsequent purchase of a work of fine art by the art dealer directly or indirectly for the art dealer's own account, a work of fine art that is bailment property when initially accepted by the art dealer remains bailment property until the purchase price minus the agreed upon commission, is paid in full to the artist.

"§ 25C-4. *Creditors of art dealer may not reach works of fine art on consignment with art dealer.*—Property that is bailment property under this Chapter is not subject to the claims, liens, or security interests of the creditors of an art dealer.

"§ 25C-5. *Risk of loss; insurable interest.*—Nothing in this Chapter shall affect any provision of law pertaining to the risk of loss between or among the parties to a consignment agreement under this Chapter or pertaining to the insurable interest of any such party."

Sec. 2. This act shall become effective October 1, 1983, and shall apply to works of fine art placed on consignment on or after that date.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1466 CHAPTER 823

AN ACT REGARDING DISCOUNTS FOR PAYMENTS OF PROPERTY TAX IN CABARRUS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 105-360(c), the governing body of Cabarrus County or any of its municipalities may, no later than July 29, 1983, adopt a resolution or ordinance specifying that a discount of two percent (2%) applies to prepayments of 1983 property taxes.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 688 **CHAPTER 824**

AN ACT TO AMEND THE LICENSING OF DOMICILIARY HOMES FOR THE AGED AND DISABLED AND THE DOMICILIARY BILL OF RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. The title of G.S. 131D-2 is rewritten to read:

"Licensing of domiciliary homes for the aged and disabled."

Sec. 2. G.S. 131D-2(a)(1) and G.S. 131D-20(1) are rewritten to read:

"'Abuse' means the willful or grossly negligent infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful or grossly negligent deprivation by the administrator or staff of a domiciliary home of services which are necessary to maintain mental and physical health."

Sec. 3. G.S. 131D-2(a)(3) and G.S. 131D-20(2) are rewritten to read:

"'Domiciliary home' means any facility, by whatever name it is called, which provides residential care for aged or disabled persons whose principal need is a home which provides the supervision and personal care appropriate to their age or disability. Medical care at a domiciliary home is only occasional or incidental, such as may be given in the home of any individual or family, but medication is administered by designated staff of the home. Personal care given in a domiciliary home includes direct assistance, by designated staff, to residents in personal grooming, bathing, dressing, feeding, shopping, laundering clothes, handling personal finances, arranging transportation, scheduling medical or business appointments, as well as attending to any personal needs residents may be incapable of or unable to attend for themselves. Domiciliary homes are to be distinguished from nursing homes subject to licensure under G.S. 131E-102. The three types of domiciliary homes are homes for the aged and disabled, family care homes and group homes for developmentally disabled adults."

Sec. 4. G.S. 131D-2(a)(2) is rewritten to read:

"'Developmentally disabled adult' means a person who has attained the age of 18 years and who has a developmental disability defined as a severe, chronic disability of a person which:

(a) Is attributed to a mental or physical impairment or combination of mental and physical impairments;

(b) Is manifested before the person attains age 22;

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

(e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

Sec. 5. G.S. 131D-2(a)(4) and G.S. 131D-20(3) are rewritten to read:

"'Exploitation' means the illegal or improper use of an aged or disabled resident or his resources for another's profit or advantage."

Sec. 6. G.S. 131D-2(d) is amended by deleting the citation "G.S. 130-9(e)" and substituting therefor "G.S. 131E-102". G.S. 131D-2(d) is further amended

by deleting the words "Nursing Homes" on line 4 and substituting therefor the words "Licensure requirements".

Sec. 7. G.S. 131D-2(a)(5) and G.S. 131D-20(5) are amended by deleting the comma between the words "direct" and "exterior" on line 5.

Sec. 8. G.S. 131D-2(a)(7) and G.S. 131D-20(7) are amended by changing the word "six" to "seven".

Sec. 9. G.S. 131D-2(b) is rewritten to read:

"(b) Licensure; inspections.

(1) The Department of Human Resources shall inspect and license, under rules adopted by the Social Services Commission, all domiciliary homes for persons who are aged or mentally or physically disabled except those exempt in subsection (d) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary of Human Resources for failure to comply with any part of this section or any rules adopted hereunder.

(2) Any individual or corporation that establishes, conducts, manages, or operates a facility subject to licensure under this section without a license is guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.

(3) In addition, the Department may summarily suspend a license pursuant to G.S. 150A-3(c) whenever it finds substantial evidence of abuse, neglect, exploitation or any condition which presents an imminent danger to the health and safety of any resident of the home.

(4) Notwithstanding G.S. 8-53 or any other law relating to confidentiality of communications between physician and patient, in the course of an inspection conducted under subsection (b):

a. Department representatives may review any writing or other record concerning the admission, discharge, medication, care, medical condition, or history of any person who is or has been a resident of the facility being inspected, and

b. any person involved in giving care or treatment at or through the facility may disclose information to Department representatives;

unless the resident objects in writing to review of his records or disclosure of such information.

The facility, its employees and any other person interviewed in the course of an inspection shall be immune from liability for damages resulting from disclosure of any information to the Department.

The Department shall not disclose:

a. any confidential or privileged information obtained under this subsection unless the resident or his legal representative authorizes disclosure in writing or unless a court of competent jurisdiction orders disclosure, or

b. the name of anyone who has furnished information concerning a facility without that person's consent.

The Department shall institute appropriate policies and procedures to ensure that unauthorized disclosure does not occur. All confidential

or privileged information obtained under this section and the names of persons providing such information shall be exempt from Chapter 132 of the General Statutes."

Sec. 10. G.S. 131D-2(c) is amended by rewriting the first two lines to read:

"(c) The following facilities are exempt from this section and shall not be required to obtain a license hereunder:".

Sec. 11. G.S. 131D-2(f) is amended by changing the word "act" wherever it appears to the word "section".

Sec. 12. G.S. 131D-2 is amended by adding new subsections to read:

"(g) In order for a domiciliary home to maintain its license, it shall not hinder or interfere with the proper performance of duty of a lawfully appointed community advisory committee, as defined by G.S. 131D-31 and G.S. 131D-32.

(h) Suspension of admissions to domiciliary home:

(1) In addition to the administrative penalties described in subsection (b), the Secretary may suspend the admission of any new residents to a domiciliary home, where the conditions of the domiciliary home are detrimental to the health or safety of the residents. This suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removing the suspension.

(2) In imposing a suspension under this subsection, the Secretary shall consider the following factors:

a. The degree of sanctions necessary to ensure compliance with this section and rules adopted hereunder; and

b. The character and degree of impact of the conditions at the home on the health or safety of its residents.

(3) The Secretary of Human Resources shall adopt rules to implement this subsection.

(i) Notwithstanding the existence or pursuit of any other remedy, the Department of Human Resources may, in the manner provided by law, maintain an action in the name of the State for injunction or other process against any person to restrain or prevent the establishment, conduct, management or operation of a domiciliary home without a license. Such action shall be instituted in the superior court of the county in which any unlicensed activity has occurred or is occurring.

If any person shall hinder the proper performance of duty of the Secretary or his representative in carrying out this section, the Secretary may institute an action in the superior court of the county in which the hindrance has occurred for injunctive relief against the continued hindrance, irrespective of all other remedies at law.

Actions under this subsection shall be in accordance with Article 37 of Chapter 1 of the General Statutes and Rule 65 of the Rules of Civil Procedure."

Sec. 13. G.S. 131D-21(14) is amended on lines 1 and 3 by inserting the words "or notice of revocation of license" immediately following the words "provisional license".

Sec. 14. G.S. 131D-22 is rewritten to read:

"§ 131D-22. *Transfer of management responsibilities.*—Any representative authorized in writing by a resident to manage his financial affairs, any resident's legal guardian as appointed by a court, or any resident's attorney-in-

fact as specified in the power of attorney agreement may sign any documents required by this Article, perform any other act, and receive or furnish any information required by this Article."

Sec. 15. G.S. 131D-26(a) is amended on line 3 by deleting the words and punctuation ", along with" and substituting therefor the word "and".

Sec. 16. G.S. 131D-26(b) is rewritten to read:

"(b) If upon investigation, it is found that any of the provisions of the declaration of rights has been violated, the director of the county department of social services or a designee must orally inform the administrator immediately of the specific violations, what must be done to correct them, and set a date by which the violations must be corrected. This same information must be confirmed in writing to the administrator by the county director or a designee within 10 working days following the investigation. A copy of the letter shall be sent to the Department of Human Resources."

Sec. 17. G.S. 131D-30(a) is amended by adding a new paragraph at the end thereof to read:

"Notwithstanding the notice requirements of G.S. 131D-26(b), any penalty imposed by the Department under this section shall commence on the day the violation began."

Sec. 18. G.S. 131D-30(d)(2) is amended by deleting the word "service" and substituting therefor the word "receipt".

Sec. 19. G.S. 131D-33 is repealed.

Sec. 20. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 935 CHAPTER 825

AN ACT TO ESTABLISH THE CRIMINAL JUSTICE INFORMATION SYSTEM AND COMPUTERIZED RECORDS STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Criminal Justice Information System and Computerized Records Study Commission is hereby created. It shall consist of 18 voting members, six to be appointed by the President of the Senate, six to be appointed by the Speaker of the House of Representatives, and six to be appointed by the Governor. Of the members appointed by the President of the Senate, one shall be a register of deeds, one shall be a chief of police, one shall be a representative of the media, one shall be a district attorney, and two shall be members of the Senate. Of the members appointed by the Speaker of the House of Representatives, one shall be a clerk of court, one shall be a sheriff, one shall be from the Department of Justice, one shall be a member of the North Carolina bar, and two shall be members of the House of Representatives. Of the members appointed by the Governor, one shall be from the Department of Administration, one shall be from the Department of Crime Control and Public Safety, one shall be from the Governor's Crime Commission, one shall be from the Administrative Office of the Courts, and two shall be at large. A vacancy in membership shall be filled by the appointing authority who made the initial appointment.

It shall be the duty of the Commission to make a study of the computerized information systems established to aid the criminal justice

system in North Carolina and the present and anticipated computerization of municipal, county, and State records, including but not limited to recorded deeds and trusts, court records, birth, death, marriage, and adoption records, and wills and estates. The Commission shall examine the storage and retrievability of such records and corrections to the records. The Commission shall particularly examine questions relating to access to such records, and issues concerning rights to privacy. The Commission may report to the General Assembly on or before the first day of the 1983 Session, Second Session 1984, if there is one, and the Commission shall report to the General Assembly on or before the first day of the 1985 Session. The report shall be in writing and shall set forth the Commission's findings, conclusions, and recommendations including any proposed legislation.

The President of the Senate and the Speaker of the House of Representatives shall each appoint a cochairman for the Commission. The Commission shall meet at such times and places as the cochairmen shall designate. The facilities of the State Legislative Building and the Legislative Office Building shall be available to the Commission, subject to the approval of the Legislative Services Commission. Legislative members of the Commission shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1. Members of the Commission who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Commission who are officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rates set out in G.S. 138-6.

The Commission may solicit, employ, or contract for technical assistance and clerical assistance, and may purchase or contract for the materials and services it needs. Subject to the approval of the Legislative Services Commission, the staff resources of the Legislative Services Commission shall be available to this Commission without cost except for travel, subsistence, supplies, and materials.

Sec. 2. The expenses of the Criminal Justice Information System and Computerized Records Study Commission shall be paid from funds available to the General Assembly.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1368 CHAPTER 826

AN ACT TO ALLOW FIVE ACRE HORTICULTURAL TRACTS TO QUALIFY FOR USE VALUATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.3(a)(2) is amended by deleting the number "10" in the first line thereof and inserting in lieu thereof the number "5".

Sec. 2. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1415 CHAPTER 827

AN ACT TO PROVIDE THAT A PERSON APPOINTED TO FILL A VACANCY IN AN ELECTED CITY OFFICE SHALL SERVE ONLY UNTIL THE NEXT CITY ELECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-63 is amended by deleting the first sentence and substituting the following:

"A vacancy that occurs in an elective office of a city shall be filled by appointment of the city council. If the term of the office expires immediately following the next regular city election, or if the next regular city election will be held within 90 days after the vacancy occurs, the person appointed to fill the vacancy shall serve the remainder of the unexpired term. Otherwise, a successor shall be elected at the next regularly scheduled city election that is held more than 90 days after the vacancy occurs, and the person appointed to fill the vacancy shall serve only until the elected successor takes office. The elected successor shall then serve the remainder of the unexpired term."

Sec. 2. This act shall be effective only for vacancies occurring on or after January 1, 1984.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1420 CHAPTER 828

AN ACT TO ALLOW CITIES TO LEVY PROPERTY TAXES FOR DRAINAGE PROGRAMS.

Whereas, G.S. 156-78.1 authorizes cities to appropriate funds for drainage projects, G.S. 159-48 authorizes cities to issue bonds for drainage purposes, G.S. 160A-216 authorizes cities to make assessments for drainage purposes, G.S. 160A-536 authorizes municipal service districts to engage in drainage projects; and

Whereas, G.S. 160A-209 does not authorize property taxes for such purposes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-209(c) is amended by adding a new subsection to read:

"(10c) Drainage. To provide for drainage projects or programs in accordance with Chapter 156 of the General Statutes or in accordance with this Chapter."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1433 CHAPTER 829

AN ACT TO AMEND THE LAW REGARDING PERSON COUNTY'S ACQUISITION OF PROPERTY BY EMINENT DOMAIN FOR AIRPORT PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40A-42(a) is amended in the first sentence by deleting the phrase "G.S. 153A-274(1), (2) or (3)" and by substituting the phrase "G.S. 153A-274(1), (2), (3) or (4)".

Sec. 2. This act applies to Person County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1443 CHAPTER 830

AN ACT TO ESTABLISH THE BUTNER FIRE AND POLICE PROTECTION DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. (a) The territorial jurisdiction of the Butner Police and Fire Protection District shall include: (i) any property formerly a part of the original Camp Butner reservation, including both those areas currently owned and occupied by the State and its agencies and those which may have been leased or otherwise disposed of by the State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County adjoining the Butner reservation and the Lyons Station Sanitary District situated north and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those roads and the boundaries of said reservation and said sanitary district.

(b) The territorial jurisdiction set forth in subsection (a) of this section shall constitute the Butner Fire and Police Protection District. The tax collectors of Durham and Granville Counties shall annually collect beginning with fiscal year 1983-84 a tax of twenty cents (20¢) per one hundred dollars ($100.00) valuation of all real and personal property in the portions of said district in their respective counties from year to year which tax shall be collected as county taxes are collected and shall remit the same to the State Treasurer for deposit in the General Fund.

Sec. 2. The purpose of this act is to partially fund the expenses of the Butner Fire and Police Protection District.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 1419 CHAPTER 831

AN ACT TO AMEND G.S. 58-54.4 RELATING TO THE LAW PROHIBITING UNFAIR BUSINESS PRACTICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-54.4 is amended by adding the following subdivision to read:

"(12) Misuse of borrowers' confidential information. Soliciting, accepting, or using any information from a lender concerning policies of insurance held by such lender as a mortgagee of real property, except from a lender who is an insurer where the loan has been made by or sold or held for sale to such insurer. Provided, however, this subdivision shall not apply to the use of such information by a lender for the solicitation of life or accident and health insurance."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. B. 177 CHAPTER 832

AN ACT PROVIDING COMPENSATION FOR INNOCENT VICTIMS OF CRIME.

The General Assembly of North Carolina enacts:

Sec. 1. A new Chapter is added to the General Statutes to read:

"CHAPTER 15B.

"Victims Compensation.

"§ 15B-1. *Short title.*—This Chapter may be cited as the 'North Carolina Crime Victims Compensation Act'.

"§ 15B-2. *Definitions.*—As used in this Chapter, unless the context requires otherwise:

(a) 'Allowable expense' means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, and other remedial treatment and care.

Allowable expense includes a total charge not in excess of two thousand dollars ($2,000) for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services in excess of a reasonable and customary charge for semiprivate accommodations, unless accommodations other than semiprivate accommodations are medically required.

(b) 'Claimant' means any of the following persons who claims an award of compensation under this Chapter:

(1) A victim;

(2) A dependent of a deceased victim;

(3) A third person other than a collateral source;

(4) A person who is authorized to act on behalf of a victim, a dependent, or a third person who is not a collateral source.

The claimant, however, may not be the offender or an accomplice of the offender who committed the criminally injurious conduct.

(c) 'Collateral source' means a source of benefits or advantages for economic loss otherwise compensable that the victim or claimant has received or that is readily available to him from any of the following sources:

(1) The offender;

(2) The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states;

(3) Social security, medicare, and medicaid;

(4) State-required, temporary, nonoccupational disability insurance;

(5) Worker's compensation;

(6) Wage continuation programs of any employer;

(7) Proceeds of a contract of insurance payable to the victim for loss that he sustained because of the criminally injurious conduct;

(8) A contract providing prepaid hospital and other health care services, or benefits for disability.

(d) 'Commission' means the Crime Victim's Compensation Commission established by G.S. 15B-3.

(e) 'Criminally injurious conduct' means conduct that occurs or is attempted in this State which by its nature poses a substantial threat of personal injury or death, and is punishable by fine or imprisonment or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this State. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle.

(f) 'Dependent' means an individual wholly or substantially dependent upon the victim for care and support and includes a child of the victim born after his death.

(g) 'Dependent's economic loss' means loss after a victim's death of contributions of things of economic value to his dependents, not including services they would have received from the victim if he had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death.

(h) 'Dependent's replacement service loss' means loss reasonably incurred by dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed for their benefit if he had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death and not subtracted in calculating dependent's economic loss.

(i) 'Director' means the director of the Commission appointed pursuant to G.S. 15B-6(2).

(j) 'Economic loss' means economic detriment consisting only of allowable expense, work loss, and replacement services loss. If criminally injurious conduct causes death, economic loss includes a dependent's economic loss and a dependent's replacement service loss. Noneconomic detriment is not economic loss, but economic loss may be caused by pain and suffering or physical impairment.

(k) 'Noneconomic detriment' means pain, suffering, inconvenience, physical impairment, or other nonpecuniary damage.

(l) 'Replacement services loss' means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person

would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

(m) 'Victim' means a person who suffers personal injury or death proximately caused by criminally injurious conduct.

(n) 'Work loss' means loss of income from work that the injured person would have performed if he had not been injured and expenses reasonably incurred by him to obtain services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him, or by income he would have earned in available appropriate substitute work that he was capable of performing but unreasonably failed to undertake.

"§ 15B-3. *Crime Victims Compensation Commission.*—(a) There is established the Crime Victims Compensation Commission of the Department of Crime Control and Public Safety, consisting of five members to be appointed as follows:

(1) Three members by the Governor, one of whom shall be a physician and one of whom shall be an attorney;

(2) One member by the General Assembly upon the recommendation of the President of the Senate under G.S. 120-121; and

(3) One member by the General Assembly upon the recommendation of the Speaker of the House of Representatives under G.S. 120-121.

(b) Members shall serve terms of four years. A member shall continue to serve until his successor is duly appointed, but a holdover under this provision does not affect the expiration date of the succeeding term.

(c) In case of a vacancy on the Commission before the expiration of a member's term, a successor shall be appointed within 30 days of the vacancy for the remainder of the unexpired term by the appropriate official pursuant to subsection (a). Vacancies in legislative appointments shall be filled under G.S. 120-122.

(d) The Commission shall elect one of its members as chairman to serve until the expiration of his term.

(e) A majority of the Commission constitutes a quorum to transact business.

(f) Members shall receive compensation and reimbursement for expenses as provided in G.S. 138-5.

"§ 15B-4. *Award of compensation.*—Subject to the limitations of G.S. 15B-22, the Commission shall award compensation for economic loss arising from criminally injurious conduct if satisfied by a preponderance of the evidence that the requirements for an award of compensation have been met.

"§ 15B-5. *Attorney General to represent State.*—The Attorney General shall represent the interest of the State when:

(1) A decision of the Commission is appealed to the courts; and

(2) When the State is sued or when it brings or enters a lawsuit pursuant to this Chapter.

"§ 15B-6. *Powers of the Commission.*—In addition to powers authorized by this Chapter and Chapter 150A, the Commission may:

(1) Establish and maintain a principal office and other necessary offices within this State;

(2) Employ a Director, investigators, and other necessary personnel;

(3) Publicize widely the availability of compensation and information regarding the filing of claims for compensation; and

(4) Adopt rules necessary to carry out the purposes of this Chapter.

"§ 15B-7. *Filing of application for compensation award; filing fee; contents.*—(a) A claim for an award of compensation is commenced by filing an application for an award with the Commission. Each application shall be accompanied by a filing fee of ten dollars ($10.00) unless waived pursuant to G.S. 15B-8(b). The application shall be in a form prescribed by the Commission and shall contain the following information:

(1) The name and address of the victim of the criminally injurious conduct, the name and address of the claimant, and the relationship of the claimant to the victim;

(2) If the victim is deceased, the name and address of each dependent of the victim and the extent to which each is dependent upon the victim for care and support;

(3) The nature of the criminally injurious conduct that is the basis for the claim and the date on which the conduct occurred;

(4) The law enforcement agency or officer to whom the criminally injurious conduct was reported and the date on which it was reported;

(5) The nature and extent of the injuries that the victim sustained from the criminally injurious conduct for which compensation is sought, the name and address of any person who gave medical treatment to the victim for the injuries, the name and address of any hospital or similar institution where the victim received medical treatment for the injuries, and whether the victim died as a result of the injuries;

(6) The total amount of the economic loss that the victim, a dependent, or the claimant sustained as a result of the criminally injurious conduct, without regard to the financial limitations set forth in G.S. 15B-11(f) and (g).

(7) The amount of benefits or advantages that the victim, a dependent, or other claimant has received or is entitled to receive from any collateral source for economic loss that resulted from the criminally injurious conduct, and the name of each collateral source;

(8) Whether the claimant is the spouse, parent, child, brother, or sister of the offender, or is similarly related to an accomplice of the offender who committed the criminally injurious conduct;

(9) A release authorizing the Commission and the Commission's staff to obtain any report, document, or information that relates to the determination of the claim for an award of compensation;

(10) Any additional relevant information that the Commission may require. The Commission may require the claimant to submit, with the application, materials to substantiate the facts that are stated in the application.

(b) A person who knowingly and willfully presents or attempts to present a false or fraudulent application, or a State officer or employee who knowingly and willfully participates or assists in the preparation or presentation of a false or fraudulent application is guilty of a misdemeanor if the application is for a claim of not more than four hundred dollars ($400.00). If the application is for a claim of more than four hundred dollars ($400.00), the person is guilty of a Class I felony.

"§ 15B-8. *Procedure for filing application; indigent applicants.*—(a) The Commission shall establish a procedure for the filing, recording, and processing of applications for an award of compensation.

(b) If an applicant files an affidavit stating that he is indigent and that payment of the filing fee would create a financial hardship for him, the Commission may accept the application for filing without payment of the filing fee. If the application is accepted without payment of the filing fee and an award is made pursuant to the application, the amount of the award shall be reduced by the amount of the filing fee.

"§ 15B-9. *Administrative Procedure Act applicable.*—Except as otherwise provided in this Chapter, Chapter 150A applies to the Commission.

"§ 15B-10. *Initial investigation and decision; appeal.*—(a) The Director shall assign each claim to an investigator as soon as it is filed.

(b) The investigator who investigates the claim shall file a report with the Director. The Director shall make an initial decision on the claim based on the application, the investigator's report, and any other written evidence he thinks necessary.

(c) If the claimant is satisfied with the Director's decision, it shall be submitted to the Commission for its approval.

(d) If the claimant is not satisfied with the Director's decision, the claimant may appeal to the Commission for a full hearing.

(e) The Commission may not employ hearing officers but shall conduct its own hearings. The Director shall represent the interest of the State at a full hearing before the Commission.

"§ 15B-11. *Grounds for denial of claim or reduction of award.*—(a) The Commission may not approve an award of compensation:

(1) To a claimant who did not file his application for an award within two years after the date of the occurrence of the criminally injurious conduct that caused the injury or death for which he is seeking an award;

(2) If the criminally injurious conduct upon which the claim is based was not reported to a law enforcement officer or agency within 72 hours after the occurrence of the conduct, unless it is determined that good cause existed for the failure to report the conduct within the 72-hour period;

(3) To a claimant if the award would unjustly benefit the offender or his accomplice. Unless a determination is made that the interests of justice require that an award be approved in a particular case, an award of compensation may not be made to the spouse of, or to a person living in the same household with, the offender or an accomplice of the offender, or to the parent, child, brother, or sister of the offender or his accomplice;

(4) If the injury occurred while the victim was confined in any state, county, or city prison, correctional facility, or local confinement facility.

(b) The Commission, upon a finding of contributory misconduct by the claimant or by a victim through whom he claims, may deny a claim or reduce an award of compensation.

(c) The Commission, upon a finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies with regard to the criminally injurious conduct that is the basis for the award, may deny a claim, reduce an award of compensation, and may reconsider a claim already approved.

(d) After reaching a decision to approve an award of compensation, but before notifying the claimant, the Commission shall require the claimant to submit

current information as to collateral sources on forms prescribed by the Commission. The Commission shall reduce an award or deny a claim for an award that is otherwise payable to a claimant to the extent that the economic loss upon which the claim is based is or will be recouped from collateral sources. If an award is reduced or a claim is denied because of the expected recoupment of all or part of the economic loss of the claimant from a collateral source, the amount of the award or the denial of the claim shall be conditioned upon the claimant's economic loss being recouped by the collateral source. If it is thereafter determined that the claimant will not receive all or part of the expected recoupment, the claim shall be reopened and an award shall be approved in an amount equal to the amount of expected recoupment that it is determined the claimant will not receive from the collateral source, subject to the limitations set forth in subsections (f) and (g).

(e) Compensation may not be awarded if the economic loss is less than one hundred dollars ($100.00).

(f) Compensation for work loss, replacement services loss, dependent's economic loss, and dependent's replacement services loss may not exceed two hundred dollars ($200.00) per week.

(g) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or the death of that victim, together with attorney fees awarded under G.S. 15B-15, may not exceed twenty thousand dollars ($20,000) in the aggregate.

(h) The Commission's right to reconsider or reopen a claim does not affect the finality of its decision for the purpose of judicial review.

"§ 15B-12. *Evidence.*—(a) The hearing shall be conducted so as to disclose all material facts and issues. The Commission may examine or cross-examine witnesses. The Commission may call witnesses or require evidence not produced by the parties and may continue the hearing until some subsequent time to permit a more complete presentation of the claim. A claimant may appear in his own behalf or may be represented by counsel. The usual common law and statutory rules of evidence do not apply at the hearing. The Commission may hear any information that will assist it in determining the factual basis of the claim.

(b) There is no privilege, except the privileges arising from the attorney-client relationship and the North Carolina and United States Constitutions, as to communications or records that are relevant to the physical, mental, or emotional condition of the claimant or victim in a proceeding under this Chapter in which that condition is an element.

(c) If the mental, physical, or emotional condition of a victim or claimant is material to a claim for an award of compensation, the Commission may order the victim or claimant to submit to a mental or physical examination by a physician or psychologist, and may order an autopsy of a deceased victim. The order may be made for good cause shown and upon notice to the person to be examined and to the claimant. The order shall specify the time, place, manner, conditions, and scope of the examination or autopsy and the person by whom it is to be made, and shall require the person who performs the examination or autopsy to file with the Commission a detailed written report of the examination or autopsy. The report shall set out the findings, including the results of all tests made, diagnosis, prognosis, and other conclusions, and reports of earlier examinations of the same conditions. On request of the person

examined, the Commission shall furnish him a copy of the report. If the victim is deceased, the Commission on request, shall furnish the claimant a copy of the report.

(d) The Commission may request that law enforcement officers employed by the State or any political subdivision thereof provide it with copies of any information or data gathered in the investigation of the criminally injurious conduct that is the basis of any claim to enable it to determine whether, and the extent to which, a claimant qualifies for an award of compensation. The Commission may also request that prosecuting attorneys, law enforcement officers, and State agencies conduct investigations and provide information necessary to enable the Commission to determine whether, and the extent to which, a claimant qualifies for an award of compensation. Information obtained pursuant to this subsection is subject to the same privilege against public disclosure that may be asserted by the providing source.

(e) The Commission may require the claimant to supplement the application for an award of compensation with any reasonably available medical or psychological reports relating to the injury for which the award of compensation is claimed.

(f) The Commission may not request the victim or the claimant to supply any evidence that would not be admissible at a trial under G.S. 8-58.6.

(g) Notwithstanding any provision to the contrary relating to the confidentiality of juvenile records, the Commission shall have access to the records of juvenile proceedings which bear upon an application for compensation, but to the extent possible, it shall maintain the confidentiality of those records.

(h) The Commission may exclude from a hearing of any matter at issue all persons, except those engaged in the hearing, during the taking of medical information and law enforcement investigative records and information as evidence.

(i) The Commission shall make available for public inspection all final orders, decisions, and opinions together with the hearing records and all materials that were before it at the time the final order, decision, or opinion was made, except that medical information, law enforcement investigative records and information, and other materials for good cause held confidential shall not be open to the public.

"§ 15B-13. *Contempt sanction not available.*—If a person refuses to comply with an order under this Chapter or asserts a privilege except one authorized by G.S. 15B-12(b) so as to withhold or suppress evidence relevant to a claim for an award of compensation, the Commission may make any just order, including denial of the claim, but may not find the person in contempt. If necessary to carry out any of its powers and duties, the Commission may petition the superior court for an appropriate order, but the court may not find a person in contempt for refusal to submit to a mental or physical examination.

"§ 15B-14. *Effect of prosecution or conviction of offender.*—(a) The Commission may approve an award of compensation whether or not any person is prosecuted or convicted for committing the conduct that is the basis of the award. Proof of conviction of a person whose conduct gave rise to a claim is conclusive evidence that the crime was committed, unless an application for rehearing, an appeal of the conviction, or a writ of certiorari is pending, or a rehearing or new trial has been ordered.

(b) The Commission may, upon a request of the Attorney General, suspend the proceedings in any claim for an award of compensation pending disposition of a criminal prosecution that has been commenced or is imminent.

"§ 15B-15. *Attorney and witness fees.*—(a) As part of an order, the Commission shall determine and award reasonable attorney fees, commensurate with services rendered, to the attorney representing a claimant in a proceeding under this Chapter. Attorney fees may be denied upon a finding that the claim or appeal is frivolous. Attorney fees may be awarded whether or not an award of compensation is approved. An attorney may not contract for or receive any larger sum than the amount allowed under this section.

(b) Each witness called by the Commission to appear in a hearing on a claim for an award of compensation shall receive compensation and expenses in an amount equal to that received by witnesses in civil cases.

"§ 15B-16. *Manner of payment; non-assignability and exemptions.*—(a) The Commission may provide for the payment of an award in a lump sum or in installments. The part of an award equal to the amount of economic loss accrued to the date of the award shall be paid in a lump sum. An award for allowable expense that would accrue after the award is made may not be paid in a lump sum. Except as provided in subsection (b), the part of an award that may not be paid in a lump sum shall be paid in installments.

(b) Upon request of the claimant, the Commission may commute future economic loss, other than allowable expense, to a lump sum but only upon a finding by the Commission that:

(1) The award in a lump sum will promote the interests of the claimant; or

(2) The present value of all future economic loss other than allowable expense does not exceed one thousand dollars ($1,000).

(c) An award for future economic loss payable in installments may be made only for a period as to which the Commission can reasonably determine future economic loss. The Commission may reconsider and modify an award for future economic loss payable in installments upon its finding that a material and substantial change of circumstances has occurred.

(d) An order on reconsideration of an award may not require refund of amounts previously paid unless the award was obtained by fraud.

"§ 15B-17. *Award not subject to taxation or execution.*—(a) An award is exempt from taxation.

(b) An award is not subject to execution, attachment, garnishment, or other process, except that, upon receipt of an award by a claimant, the part of the award that is for allowable expense is not exempt from such an action by a creditor to the extent that he provides products, services, or accommodations the costs of which are included in the award, and the part of the award that is for work loss is not exempt from such an action to secure payment of alimony, maintenance, or child support.

"§ 15B-18. *Subrogation by State.*—(a) If compensation is awarded, the State is subrogated to all the claimant's rights to receive or recover benefits or advantages for economic loss from a source that is, or if readily available to the victim or claimant would be, a collateral source, to the extent of the compensation awarded.

(b) The State is an eligible recipient for restitution under G.S. 15A-1021, 15A-1343, 148-33.1, 148-33.2, 148-57.1, and any other applicable statutes.

(c) As a prerequisite to bringing an action to recover damages related to criminally injurious conduct for which compensation is claimed or awarded, the claimant shall give the Commission prior written notice of the proposed action. After receiving the notice the Commission shall immediately notify the Attorney General who shall promptly:

(1) Join in the action as a party plaintiff to recover compensation awarded;

(2) Require that the claimant bring the action in his individual name as a trustee in behalf of the State to recover compensation awarded; or

(3) Reserve its rights and do neither in the proposed action. If, as requested by the Attorney General, the claimant brings the action as trustee and recovers compensation awarded by the Commission, he may deduct from the compensation recovered in behalf of the State the reasonable expenses, including attorney fees, allocable by the court for that recovery.

(d) If a judgment or verdict separately indicates economic loss and noneconomic detriment, payments on the judgment shall be allocated between them in proportion to the amounts indicated. In an action in a court of this State arising out of criminally injurious conduct, the judge, on timely motion, shall direct the jury to return a special verdict, indicating separately the awards for noneconomic detriment, punitive damages, and economic loss.

(e) Any funds recovered by the State pursuant to this section shall be paid to the General Fund.

"§ 15B-19. *Subrogation by collateral sources prohibited.*— Subrogation rights that a collateral source may have may not extend to a recovery from a claimant of all or any part of an award made under this Chapter. A collateral source may not apply in the name of a claimant or otherwise for an award of compensation based upon injury to a claimant to whose rights the collateral source may be subrogated.

"§ 15B-20. *Publicity.*—Any law enforcement agency that investigates an offense committed in this State involving personal injury shall make reasonable efforts to provide information to the victim of the offense and his dependents concerning the availability of an award of compensation and advise those persons that an application for an award may be obtained from the Commission.

"§ 15B-21. *Annual report.*—The Commission shall prepare and transmit annually to the Governor and the General Assembly a report of its activities. The report shall include the number of claims filed; the number of awards made and the amount of each award; a statistical summary of claims denied and awards made, including the average size of claims and awards; separate listing of the administrative costs, compensation of commissioners and Commission personnel, and the amount awarded as attorney fees. The Attorney General and State Auditor shall assist the Commission in the preparation of the report required by this section.

"§ 15B-22. *Disbursements.*—If the Commission cannot pay compensation awarded under this Chapter due to insufficient appropriations, the Commission shall delay payment until sufficient funds are available and shall make no further awards of compensation until sufficient appropriations are made."

Sec. 2. G.S. 120-123 is amended by adding a new subdivision to read:

"(33) The Crime Victims Compensation Commission, as established by G.S. 15B-3."

Sec. 3. G.S. 143B-475 is amended by adding a new subsection to read:

"(e) The Crime Victims Compensation Commission established by Chapter 15B is vested in the Department of Crime Control and Public Safety. The Commission shall be administered as provided in Chapter 15B."

Sec. 4. Notwithstanding G.S. 15B-3, the initial five members of the Crime Victims Compensation Commission shall be appointed within 30 days after the effective date of this act, and shall serve initial terms as follows:

(1) The General Assembly's appointee recommended by the President of the Senate shall serve three years.

(2) The General Assembly's appointee recommended by the Speaker of the House of Representatives shall serve three years.

(3) The Governor's appointees shall serve four years except that one of the Governor's three appointees shall serve two years.

Sec. 5. Any funds appropriated to implement the provisions of this act that have not been expended at the end of the fiscal year do not revert.

Sec. 6. This act shall become effective when funds are appropriated by the General Assembly to the Department of Crime Control and Public Safety to implement the provisions of this act. No claims may be filed under this act for any criminally injurious conduct occurring before the effective date of this act or after December 31, 1991. Moneys remaining after payment of claims under this Chapter shall revert to the General Fund on July 1, 1993. This act is repealed effective July 1, 1993.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 368 CHAPTER 833

AN ACT TO AMEND CHAPTER 97 OF THE GENERAL STATUTES TO DEFINE INJURY BY ACCIDENT FOR WORKERS' COMPENSATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-2(6) is rewritten to read:

"(6) Injury. 'Injury and personal injury' shall mean only injury by accident arising out of and in the course of the employment, and shall not include a disease in any form, except where it results naturally and unavoidably from the accident. With respect to back injuries, however, where injury to the back arises out of and in the course of the employment and is the direct result of a specific traumatic incident of the work assigned, 'injury by accident' shall be construed to include any disabling physical injury to the back arising out of and causally related to such incident. Injury shall include breakage or damage to eyeglasses, hearing aids, dentures, or other prosthetic devices which function as part of the body; provided, however, that eyeglasses and hearing aids will not be replaced, repaired, or otherwise compensated for unless injury to them is incidental to a compensable injury."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 376 CHAPTER 834

AN ACT RELATING TO THE DISPOSITION OF ANIMALS BY ANIMAL SHELTERS AND POUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 67-32 is rewritten to read:

"§ 67-32. *Pound; disposition of impounded dogs.*—The board of county commissioners in each county in which a county dog warden is appointed under this Article shall establish and maintain a dog pound in each county, the same to be under the supervision of the county dog warden, for the purpose of impounding lost and stray dogs for a period to be determined by the board of county commissioners, but not less than 72 hours, during which time the county dog warden shall make every reasonable effort to locate and give notice to the owners of such dogs, or if such owners cannot be located, to find new owners for such dogs. If at the end of the holding period to be determined by the board of commissioners but not less than 72 hours, such dogs remain unclaimed by their owners or by prospective owners, such dogs are to be disposed of in one of the following manners: returned to the owner; adopted as a pet by a new owner; sold or donated to institutions within this State registered by the United States Department of Agriculture pursuant to the Federal Animal Welfare Act, as amended; or put to death by a procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or of the American Humane Association. The Animal Control Officer shall maintain a record of all animals impounded under this section which shall include the date of impoundment, the length of impoundment, the method of disposal of the animal and the name of the person or institution to whom any animal has been released. Any owner who delivers a dog to the pound shall be put on notice that such dog may be put to death or sold to an institution if it is not adopted. Such notification shall be posted at the pound. Anyone claiming or redeeming a dog at the pound will be required to pay the actual cost of keeping the dog in the pound, as well as any tax due, before any such dog may be released."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 543 CHAPTER 835

AN ACT TO PERMIT THE ISSUANCE OF A CERTIFICATE OF NEED FOR NURSING HOMES IN QUALIFYING COUNTIES THAT DO NOT HAVE NURSING HOMES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other law to the contrary, including Chapter 1127, Section 31 of the 1981 Session Laws and any other similar or special provision found in the 1983 Session Laws, if a county has a population of 25,000 or more and if no nursing home licensed under G.S. 130-9(e) is located in such county, the Department of Human Resources may issue a certificate of need under Article 18 of Chapter 131 of the General Statutes for the establishment of one nursing home in the county; provided that the proposal meets all the relevant review criteria set forth in Article 18 of Chapter 131 of

the General Statutes and the regulations promulgated thereunder, including the State Medical Facilities Plan.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 583 CHAPTER 836

AN ACT TO PROVIDE TIME TO STUDY THE NEED FOR NEW INTERMEDIATE CARE FACILITY BEDS FOR THE MENTALLY RETARDED.

Whereas, the General Assembly finds that there has been a dramatic increase in the number of beds certified as intermediate care facility beds for the mentally retarded in both State and private facilities; and

Whereas, the Department of Human Resources has designated a special task force to address the following issues: (1) the current availability of services for the mentally retarded in both State institutions and community-based programs, (2) the criteria for establishing different levels of services, particularly ICF/MR services, appropriate for mentally retarded individuals, (3) a mechanism for developing a client profile related to the appropriate level of services needed and a mechanism for determining appropriate placement, (4) the number of persons in need of ICF/MR level of services, (5) the appropriate role for the State's mental institutions and psychiatric hospitals and for the public and private community residential settings, including the relationship between the State programs and the non-State programs, and (6) the need for additional ICF/MR beds; and

Whereas, the General Assembly finds that additional time is needed to thoroughly examine the existing service capacity of intermediate care facilities for the mentally retarded and the future need for such beds and services, taking into consideration the effects of a proposed Medicaid Waiver that would allow reimbursement for community services provided to persons presently served by intermediate care facilities for the mentally retarded, changes in the proposed federal funding levels and eligibility criteria, and the costs related to provision of such services; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 18 of Chapter 131 of the General Statutes and Section 31 of Chapter 1127, 1981 Session Laws, beginning on the effective date of this act, and until June 30, 1984, the Department of Human Resources shall not issue a certificate of need for:

(1) any new or additional intermediate care facility bed for the mentally retarded;

(2) any new intermediate care facility for the mentally retarded; or

(3) any conversion of an existing bed, whether it is in a health care facility or in a facility that is not a health care facility, to an intermediate care facility bed for the mentally retarded.

The foregoing shall not affect applications for conversion of domiciliary beds to ICF/MR beds that were filed with the Department of Human Resources on or before June 1, 1983; however, the Department shall not issue a certificate of need to an applicant for more than 10 beds. The foregoing shall not prohibit the Department of Human Resources from granting a certificate of need for a

project that the General Assembly has authorized and funded by June 1, 1983, or for a project which has both an application submitted for a certificate of need and an approved Housing and Urban Development (HUD) Section 202/8 fund reservation as of January 1, 1983.

Sec. 2. Any person who has applied for a certificate of need and who has not received one due to the limitations of Section 1 of this act shall not be required to file a new application with the Department of Human Resources in order for that proposal to be reviewed after July 1, 1984. Such a person may request the Department to review the application that already has been filed. Nonetheless, the Department of Human Resources may adopt rules requiring an applicant to review the application and update it where appropriate.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 932 CHAPTER 837

AN ACT TO PROVIDE COURT-ORDERED PARENT PARTICIPATION IN TREATMENT IN CERTAIN JUVENILE CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-523 is amended by designating the existing section as subsection (a) and by adding a new subsection (b) to read:

"(b) The court shall have jurisdiction over the parent of a juvenile who has been adjudicated delinquent, undisciplined, abused, neglected or dependent, as provided by the special hearing prescribed by G.S. 7A-650, provided the parent has been properly served with notice of the special hearing."

Sec. 2. G.S. 7A-650 is amended by designating subsection (c) as subsection (d) and by inserting a new subsection (c) to read:

"(c) In any case where a juvenile has been adjudicated as delinquent, undisciplined, abused, neglected or dependent, the judge may conduct a special hearing to determine if the court should order the parents to participate in medical, psychiatric, psychological or other treatment. The notice of this hearing shall be by special petition and summons to be filed by the court and served upon the parents at the conclusion of the adjudication hearing. If, at this hearing, the court finds it in the best interest of the juvenile for the parent to be directly involved in treatment, the judge may order the parent to participate in medical, psychiatric, psychological or other treatment."

Sec. 3. G.S. 7A-650 is further amended by redesignating subsection (d) as subsection (e).

Sec. 4. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1050 **CHAPTER 838**

AN ACT CREATING A COMMITTEE FOR A COMPREHENSIVE STUDY OF THE PROPERTY TAX SYSTEM IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. There is established a Property Tax System Study Committee. The Committee shall consist of 16 members. The President Pro Tempore shall appoint eight members of the Senate, and the Speaker of the House shall appoint eight members of the House of Representatives to serve on the Committee. To aid the Committee in its study of the property tax, an Advisory Subcommittee shall be created to be composed of six members and to be appointed as follows: the Speaker of the House shall appoint three members, one of whom is a county commissioner, one a county tax official, and one a citizen representing the public-at-large; the President Pro Tempore of the Senate shall appoint three members, one of whom is a county commissioner, one an elected municipal official, and one a citizen representing the public-at-large. All appointments shall be made in time for the Committee to begin its work by September 15, 1983. The Speaker and President Pro Tempore of the Senate shall jointly call the first meeting to be held on a date no later than September 15, 1983.

Sec. 2. Upon its appointment, the Committee shall meet and elect from its membership a chairman and vice-chairman. Original members appointed to the Committee shall serve until the Committee makes its final report. Vacancies on the Committee shall be filled in the same manner as the original appointments were made.

Sec. 3. The Committee shall make a detailed and comprehensive study of the efficiency, effectiveness and fairness of the property tax system in North Carolina. The Committee shall examine all classes of property that comprise the property tax base, all exemptions, exclusions and preferential classifications, and the valuation of public utility property to determine whether the property tax system is fair and equitable in taxing the citizens of the State. The Committee shall review current procedures for listing and collecting taxes on personal and real property to determine how to increase the efficiency and equity of these procedures. The Committee shall examine the octennial revaluation system and evaluate the feasibility of any programs that would aid the counties in conducting more frequent revaluations.

Sec. 4. On or before February 1, 1985, the Committee shall submit a final written report of its recommendations to the General Assembly by filing the report with the Speaker of the House and President Pro Tempore of the Senate. If legislation is recommended, the Committee shall submit appropriate bills with its report. The Committee, in its discretion, may submit an interim report to the 1984 Session of the 1983 General Assembly. The Committee shall terminate upon filing its final report.

Sec. 5. The Committee shall consult with tax officials in State and local government and may employ necessary professional and clerical assistance. The Committee is authorized to obtain assistance from the Department of Revenue and the Fiscal Research Division of the Legislative Services Commission.

Sec. 6. As an aid to the Committee in its deliberations and to determine the current effectiveness and fairness of the property tax system in North Carolina, the Department of Revenue shall furnish to the Committee the

results of a sales ratio study performed under the provisions of G.S. 105-289(h). The Department of Revenue shall conduct the sales ratio study during the period July 1, 1983 through July 1, 1984 to show the level and quality of assessment in the various counties as of January 1, 1984. The results of the sales ratio study shall be only for the use of the Committee in its study and shall not be admissible in any appeal process under the provisions of Chapter 105 of the General Statutes or in any court proceeding. It shall be the duty of the county tax supervisors to furnish such information to the Department of Revenue as the Department may require to conduct the sales ratio study.

Sec. 7. The Committee shall meet in the State Legislative Building or in the Legislative Office Building.

Sec. 8. Committee members shall be paid subsistence and travel allowances at the rate established for members of the General Assembly in G.S. 120-3.1. Advisory Committee members shall be paid subsistence and travel allowances at the rate established in G.S. 138-5.

Sec. 9. The expenses of the Committee, including any expenses incurred by the Department of Revenue in making the sales ratio study, shall be paid from funds collected by the Department of Revenue under Article 7, Chapter 105 of the General Statutes. The funds so expended shall be deducted as in G.S. 105-213(a) for the costs of administering the intangibles tax. Committee expenses shall be limited to a maximum of seventy-five thousand dollars ($75,000).

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1177 CHAPTER 839

AN ACT TO REQUIRE THE DEPARTMENT OF ADMINISTRATION TO PUBLISH A NORTH CAROLINA PURCHASE REGISTRY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-345.7. *North Carolina Purchase Registry.*—The Division of Purchase and Contract of the Department of Administration shall publish a tabloid size, biweekly publication to be known as the 'North Carolina Purchase Directory' which shall contain information on contract and purchase requirements from the Division of Purchase and Contract, the Office of State Construction, the Department of Transportation, and other agencies of State government which make direct purchases from private suppliers. The Division shall mail four free issues of this publication to all persons and businesses on the current bidders roster, to all Chambers of Commerce in North Carolina, to all business associations in North Carolina and to all persons or businesses on a list to be supplied by the Department of Commerce, within 30 days after the effective date of this section; thereafter the Division shall make the publication available on a subscription basis. Said subscription price shall not exceed forty dollars ($40.00) per year and shall be computed taking into consideration the cost of producing and mailing the publication. The Division shall coordinate with the other departments of State government to ensure that the publication

is meeting the goals of disseminating as widely as possible and in a timely manner information on those State contracts which are open for bids."

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1196 CHAPTER 840

AN ACT TO PLACE THE PRESIDENT OF THE NORTH CAROLINA SOCIETY OF FIRE INSTRUCTORS ON THE STATE FIRE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-481 is amended in the first sentence of the first paragraph by deleting the phrase "12 voting members" and by substituting the phrase "13 voting members".

Sec. 2. G.S. 143B-481 is further amended in the first sentence of the first paragraph by inserting immediately after the phrase "the Director of the North Carolina Fire College and Pump School," the phrase "the President of the North Carolina Society of Fire Instructors."

Sec. 3. G.S. 143B-483(c) is amended in the second sentence by deleting the word "Five" and by substituting the word "Six".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1465 CHAPTER 841

AN ACT TO AUTHORIZE CERTAIN COUNTIES AND CITIES TO REGULATE ABANDONED, JUNKED VEHICLES FOR AESTHETIC PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. (a) Dare, Stokes, Alleghany, Carteret and Columbus Counties may by ordinance regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property within the county's ordinance-making jurisdiction upon a finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance. The authority granted by this section shall be supplemental to any other authority conferred upon counties. Nothing in this section shall be construed to authorize a county to require the removal or disposal of a motor vehicle kept or stored at a bona fide "automobile graveyard" or "junkyard" as defined in G.S. 136-143.

For purposes of this section, the term "junked motor vehicle" means a vehicle that does not display a current license plate and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than one hundred dollars ($100.00).

(b) Any ordinance adopted pursuant to this section shall include a prohibition against removing or disposing of any motor vehicle that is used on a regular basis for business or personal use.

Sec. 2. (a) A municipality in Dare, Stokes, Alleghany, Carteret or Columbus County may by ordinance regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property within the municipality's ordinance-making jurisdiction upon a finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance. The authority granted by this section shall be supplemental to any other authority conferred upon municipalities. Nothing in this section shall be construed to authorize a municipality to require the removal or disposal of a motor vehicle kept or stored at a bona fide "automobile graveyard" or "junkyard" as defined in G.S. 136-143.

For purposes of this section, the term "junked motor vehicle" means a vehicle that does not display a current license plate and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than one hundred dollars ($100.00).

(b) Any ordinance adopted pursuant to this section shall include a prohibition against removing or disposing of any motor vehicle that is used on a regular basis for business or personal use.

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 34 CHAPTER 842

AN ACT TO PROVIDE ALL SENIOR COLLEGES WITH COPIES OF THE SESSION LAWS AND HOUSE AND SENATE JOURNALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-45 is amended by adding immediately following the line containing "J. C. Smith University" the following new lines: "Belmont Abbey College 1 1; Bennett College 1 1; Catawba College 1 1; Gardner-Webb College 1 1; Greensboro College 1 1; High Point College 1 1; Livingstone College 1 1; Mars Hill College 1 1; Meredith College 1 1; Methodist College 1 1; North Carolina Wesleyan College 1 1; Queens College 1 1; Sacred Heart College 1 1; St. Andrews Presbyterian College 1 1; Salem College 1 1; Warren Wilson College 1 1".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 164 CHAPTER 843

AN ACT TO PROVIDE FUNDS FOR SCREENING FOR NEURAL TUBE DEFECTS.

Whereas, neural tube defects are a major cause of stillbirth, death in infancy, paralysis and mental retardation; and

Whereas, the incidence of neural tube defects is higher in North Carolina than in any other state in the nation; and

Whereas, one in every 500 infants born in North Carolina has a neural tube defect; and

Whereas, neural tube defects are 30 times more common than phenylketonuria and 10 times more common than congenital hypothyroidism; and

Whereas, prenatal screening for neural tube defects would save hundreds of thousands of dollars otherwise spent for medical care and institutionalization; and

Whereas, it is essential to provide services to reduce the occurrence of neural tube defects; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Health Services, Department of Human Resources, the sum of one hundred thousand dollars ($100,000) for fiscal year 1983-84 to provide funds for statewide screening for fetal neural tube defects.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 451 CHAPTER 844

AN ACT TO PROVIDE FOR THE PUBLICATION OF SUMMARIES OF PROPOSED CONSTITUTIONAL AMENDMENTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 147 of the General Statutes is amended by adding a new Article to read:

"Article 4A.

"Constitutional Amendments Publication Commission.

"§ 147-54.5. *Constitutional Amendments Publication Commission.*—(a) There is established within the Department of the Secretary of State the Constitutional Amendments Publication Commission (hereinafter 'Commission').

(b) The Commission shall consist of three members who shall serve ex officio as follows: The Secretary of State, the Attorney General, and the Legislative Services Officer.

"§ 147-54.6. *Officers; meetings; quorum.*—(a) The Secretary of State shall be the Chairman of the Commission.

(b) A quorum shall consist of all three members.

(c) The Commission shall meet on the call of the Chairman or any two members.

"§ 147-54.7. *Powers.*—At least 60 days before an election in which a proposed amendment to the Constitution, or a revised or new Constitution, is to be voted on, the Commission shall prepare an explanation of the amendment, revision, or new Constitution in simple and commonly used language.

The summary prepared by the Commission shall be printed by the Secretary of State, in a quantity determined by the Secretary of State. A copy shall be sent along with a news release to each county board of elections, and a copy shall be available to any registered voter or representative of the print or broadcast media making request to the Secretary of State. The Secretary of State may make copies available in such additional manner as he may determine."

Sec. 2. Nothing contained in this act shall affect the validity of the voting on any proposed constitutional amendment, including the exercise of any powers by the Constitutional Amendments Publication Commission.

Sec. 3. There is appropriated from the General Fund to the Department of Secretary of State for fiscal year 1983-84 the sum of five thousand five hundred seventy dollars ($5,570) to implement this act.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 509 CHAPTER 845

AN ACT TO APPROPRIATE FUNDS FOR LUTHERAN FAMILY SERVICES IN NORTH CAROLINA, INC., AS A GRANT-IN-AID TO A PRIVATE CHILD-CARING INSTITUTION.

Whereas, Lutheran Family Services in North Carolina, Inc., has been providing residential child care continuously since March 1, 1978; and

Whereas, Lutheran Family Services presently provides residential care to 144 children in 21 counties in the State of North Carolina; and

Whereas, during 1982 an average of 43 children per day in the care of Lutheran Family Services would have been eligible under the grants-in-aid formula; and

Whereas, the recommended 1983-85 Base Budget appropriation for grants-in-aid to private child-caring institutions includes three thousand five hundred fifty-nine dollars and twenty cents ($3,559.20) for each of the 827 eligible children; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. In addition to any other funds appropriated for this purpose by law, there is appropriated from the General Fund to the Department of Human Resources the sum of one hundred fifty-three thousand forty-six dollars ($153,046) for fiscal year 1983-84 for the purpose of including Lutheran Family Services in North Carolina, Inc., as a private child-caring institution receiving a State grant-in-aid.

Sec. 2. The funds appropriated in Section 1 shall be paid by the Department of Human Resources to Lutheran Family Services in North Carolina, Inc., according to the applicable provisions of Title 10 of the North Carolina Administrative Code, pertaining to the payment of grants-in-aid to private child-caring institutions.

Sec. 3. Any future request for a grant-in-aid to Lutheran Family Services in North Carolina, Inc., shall be submitted along with the requests of the other eligible private child-caring institutions according to the provisions of G.S. 143B-139.2.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 538 CHAPTER 846

AN ACT TO PROVIDE FUNDS FOR MATERNITY HOME CARE.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources, Division of Social Services, the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 to provide increased support for maternity home care.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 581 CHAPTER 847

AN ACT TO APPROPRIATE MATCHING FUNDS FOR COUNTY DAY-CARE COORDINATING AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 to provide funds on a matching basis to counties to aid them in establishing county day-care coordinating agencies. Each county or group of counties coming together may receive up to a total of five thousand dollars ($5,000) in matching funds.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 726 CHAPTER 848

AN ACT TO CLARIFY THE DISPOSITION OF REVENUE GENERATED BY THE SALE OF PERSONALIZED REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-81.3(c)(1) is amended by deleting "Natural Resources and Community Development" and substituting "Commerce".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 745 **CHAPTER 849**

AN ACT TO APPROPRIATE FUNDS TO REDUCE THE UNDUE BURDEN PLACED ON WARREN COUNTY AFTER HAVING TO ABSORB THE PCB TOXIC WASTE THAT WAS SPREAD OVER SOME FOURTEEN COUNTIES AND FORT BRAGG.

Whereas, the orderly, environmentally sound economic growth of Warren County has been adversely affected by the polychlorinated biphenyl landfill facility being installed into the County; and

Whereas, this adverse impact has both current and potential implication for the citizens of Warren County; and

Whereas, the State of North Carolina, in its responsibility for the health and safety of all North Carolinians, removed the PCB soil from 14 county roadsides and placed this contaminated PCB soil into an Environmental Protection Agency designed and constructed facility; and

Whereas, the State was thereby rendered safer at the potential risk of Warren County citizens; and

Whereas, the economic growth of this disadvantaged County, through industrial recruitment and expansion, has been greatly complicated and made exceedingly difficult by the installation of this hazardous waste facility; and

Whereas, additionally, the social and health considerations of the County have been adversely affected; and

Whereas, there have been several legislative bills introduced by Representative Ballance, Representative Church and others to protect Warren County from the location of additional toxic waste facilities in the County and to request the detoxification of PCB with required monitoring of the current facility; and

Whereas, Governor James B. Hunt has committed to the citizens of Warren County his support in the area of industrial development, health services and social programs; and

Whereas, legislative action to provide tangible assistance through specific allocation to the benefit of the citizens of Warren County would not constitute special treatment to Warren County, but would serve to reduce the undue burden placed on Warren County after having to absorb the PCB toxic waste that was spread over 14 counties and Fort Bragg, North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Board of County Commissioners of Warren County the sum of one hundred thousand dollars ($100,000) for the 1983-84 fiscal year for industrial development in order to reduce the undue burden placed on the County after having to absorb the PCB toxic waste that was spread over 14 counties and Fort Bragg.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 797 **CHAPTER 850**

AN ACT AUTHORIZING THE ATTORNEY GENERAL TO DESIGNATE AN ATTORNEY TO SPECIALIZE IN THE LAW OF THE HANDICAPPED.

The General Assembly of North Carolina enacts:

Section 1. Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-4.2F. *Designation of attorney specializing in the law of the handicapped.*—The Attorney General is authorized to designate from his staff an attorney to specialize in the law of the handicapped. The attorney so designated shall act as advisor to the Division of Vocational Rehabilitation, the North Carolina Council for the Hearing Impaired, the North Carolina School for the Deaf and the Governor Morehead School."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 990 **CHAPTER 851**

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS BY CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to authorize construction, by certain constituent institutions of The University of North Carolina, of the capital improvements projects listed herein for each such institution, and to authorize the financing of these capital improvements projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, or other funds, or any combination of these funds, but not including funds appropriated from the General Fund of the State.

Prior to the execution of design contracts for the projects authorized herein, the Director of the Budget, after consultation with the Advisory Budget Commission, shall approve the method of funding the projects.

Sec. 2. The projects hereby authorized to be constructed and financed as provided in Section 1 of this act are as follows:

1.	Appalachian State University	
	a. Replacement of Artificial Surfaces - Stadium	$ 989,500
	b. Indoor Recreational Facility	3,304,000
2.	East Carolina University	
	Residence Hall Major Projects and Renovations	1,527,500
3.	North Carolina School of the Arts	
	Renovation and Alteration to Dormitories	1,105,000
4.	North Carolina State University at Raleigh	
	a. Watauga Hall Renovation	2,522,000
	b. Carmichael Gymnasium Addition	10,000,000
	c. Hillsborough Square	1,815,000

5.	The University of North Carolina at Chapel Hill	
	Renovation and Remodeling Student Services Facilities	4,593,500
6.	The University of North Carolina at Charlotte	
	a. 500 Bed Student Housing	8,160,000
	b. 1,000 Spaces, Parking	1,012,000
	c. Bookstore, Print Shop and Vending Building	393,000
7.	The University of North Carolina at Greensboro	
	a. Addition to Elliott University Center	2,500,000
	b. Renovation of Residence Halls	4,760,000
	c. Student Dining Hall Renovation	1,872,200
8.	The University of North Carolina at Wilmington	
	a. 200 Bed Student Housing	4,058,000
	b. 400 Car Parking	370,200
	c. Student Store	1,365,000
Grand Total Self-Liquidating Authorizations		$50,346,900

Sec. 3. The Director of the Budget, after consultation with the Advisory Budget Commission, may, when in his opinion it is in the best interest of the State to do so, and upon the request of The University of North Carolina Board of Governors, authorize a decrease in the scope or a change in the method of funding of any project authorized by this act.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1017 CHAPTER 852

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF AGRICULTURE FOR WESTERN NORTH CAROLINA MARKET DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture the sum of forty-nine thousand fifty-five dollars ($49,055) for fiscal year 1983-84 to be used for personnel and related expenses in a program of market development and promotion of woody ornamentals and other horticultural crops in Western North Carolina.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1018 **CHAPTER 853**

AN ACT TO APPROPRIATE FUNDS FOR THE ACQUISITION OF PARKLAND AND THE CONSTRUCTION OF FOREST RESOURCES COUNTY HEADQUARTERS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of one hundred fifteen thousand dollars ($115,000) for fiscal year 1983-84 for an Anson County headquarters for the Division of Forest Resources and the sum of seventy-three thousand dollars ($73,000) for fiscal year 1983-84 for a Craven County headquarters for the Division of Forest Resources.

Sec. 2. There is hereby appropriated from the General Fund to the Department of Administration the sum of two hundred fifteen thousand dollars ($215,000) for land acquisition for the Eno River State Park.

Sec. 3. There is appropriated from the General Fund to the Jones County Board of Commissioners for fiscal year 1983-84 the sum of one hundred thousand dollars ($100,000) for a public auditorium.

Sec. 4. There is appropriated from the General Fund to the Halifax County Board of Commissioners for fiscal year 1983-84 the sum of one hundred thousand dollars ($100,000) for a farmer's market.

Sec. 5. Section 1 of Chapter 226, Session Laws of 1983, is amended by adding immediately after the word "city" whenever that word appears the words "or county".

Sec. 6. Section 2 of Chapter 226, Session Laws of 1983, is amended by adding immediately before the word "only" the words "and Halifax County".

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1112 **CHAPTER 854**

AN ACT TO AMEND CHAPTER 163 OF THE GENERAL STATUTES TO AUTHORIZE REGISTRATION OF VOTERS BY DRIVER LICENSE EXAMINERS OF THE DIVISION OF MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 163 of the General Statutes is amended by adding the following new section:

"§ 163-81. *Driver license examiners authorized to accept applications to register voters.*—(a) Notwithstanding any other provision of law, the State Board of Elections is authorized to appoint as special registration commissioners duly appointed driver license examiners of the Division of Motor Vehicles.

The State Board of Elections may appoint such number of license examiners as it deems necessary as special registration commissioners, and the persons appointed shall serve at the pleasure of the State Board of Elections, and may be removed as a registration commissioner at any time for any reason satisfactory to the Board.

Before entering upon the duties of the office each special registration commissioner shall take the oath of office prescribed in Section 7 of Article VI of the North Carolina Constitution.

(b) Special registration commissioners appointed under this section are authorized to accept applications to register persons who are qualified for registration regardless of that person's voting precinct or county of residence in the State. The special registration commissioners appointed pursuant to this section shall possess those qualifications set forth in G.S. 163-41(b), and shall have the same authority to accept applications to register voters as is conferred upon registration officials in this Chapter.

(c) The Division of Motor Vehicles shall, pursuant to the rules and regulations adopted by the State Board of Elections, afford a person who applies for original issuance, renewal or correction of a driver's license an opportunity to complete an application to register to vote or to update his registration if the voter has changed his address or moved from one precinct to another or from one county to another. The necessary forms shall be prescribed by the State Board of Elections. All applications shall be forwarded to the appropriate County Board of Elections.

Registration shall become effective as provided in G.S. 163-67(a).

(d) The State Board of Elections is authorized to promulgate rules and regulations necessary to implement the provisions of this section."

Sec. 2. There is appropriated from the Highway Fund to the Division of Motor Vehicles of the Department of Transportation the sum of nine hundred thirty-four thousand one hundred fifteen dollars ($934,115) for fiscal year 1983-84 and the sum of nine hundred forty-seven thousand three hundred seventy-five dollars ($947,375) for fiscal year 1984-85 in a reserve to implement G.S. 163-81. Use of funds from this reserve shall be subject to the approval of the Director of the Budget.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 720 CHAPTER 855

AN ACT TO AMEND THE NOTICE REQUIREMENTS OF G.S. 105-375.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-375(c) is amended by inserting a new sentence after the first sentence to read:

"A notice stating that the judgment will be docketed and that execution will be issued thereon shall also be mailed by certified or registered mail, return receipt requested, to the current owner of the property (if different from the listing owner) if: (i) a deed or other instrument transferring title to and containing the name of the current owner was recorded in the office of the register of deeds or filed or docketed in the office of the clerk of superior court after January 1 of the first year in which the property was listed in the name of the listing owner, and (ii) the tax collector can obtain the current owner's mailing address through the exercise of due diligence."

Sec. 2. G.S. 105-375(i)(2) is amended to read:

"(2) In lieu of personal service of notice on the owner of the property, registered or certified mail notice shall be mailed to the listing owner (and to

the current owner if notice was required to be mailed to him pursuant to subsection (c), above) at this last known address at least 30 days prior to the day fixed for the sale."

Sec. 3. This act shall become effective on ratification but shall not apply to foreclosure actions commenced prior to its effective date.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1137 CHAPTER 856

AN ACT TO PROVIDE AN EDUCATION PROGRAM SPECIALIST AND A MEDIA TECHNICIAN TO AID MEDICAL PROFESSIONALS AND PARENTS, AND EDUCATORS OF HEARING IMPAIRED CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources, Division of Vocational Rehabilitation Services, the sum of fifty thousand seventy-five dollars ($50,075) for fiscal year 1983-84 to provide an Education Program Specialist and a Media Technician, to aid medical professionals and parents and educators of hearing impaired children.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1468 CHAPTER 857

AN ACT TO CLARIFY THE PROCEDURE FOR FILING TEMPORARY RULES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 150A-13 is amended by inserting the following language at the end of subsection (a):

"The written certification of the finding of need for the temporary rule shall be signed by:

(1) The member of the Council of State in the case of the Departments of Justice, Insurance, Public Instruction, Labor, Agriculture, Treasurer, State Auditor, or Secretary of State.

(2) The chairman of the board in the case of an occupational licensing board.

(3) The Governor in the case of all other agencies."

G.S. 150A-13 is further amended by inserting the following language between "temporary rule" and "together" in the second sentence of that subsection: "signed by the Governor".

Sec. 2. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1395 CHAPTER 858

AN ACT TO PERMIT CERTAIN GRANTS OF CERTIFICATES OF NEED.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any law to the contrary, the Department of Human Resources may grant a certificate of need for a project which utilizes existing ICF-MR beds currently certified in State-operated facilities by transferring these beds with the approval of the director of the State facility, the Deputy Director for Mental Retardation, Division of Mental Health, Mental Retardation and Substance Abuse Services, Department of Human Resources, and the Secretary of the Department of Human Resources to community ICF-MR facilities which meet the following criteria:

(1) Maximum size of 15 beds per facility;

(2) Per diem cost must be no more than the cost of the same beds in the State facility; and

(3) All beds must be utilized for a period of at least 12 months for the transfer of clients from the State facility to the community facility, after which fifty percent (50%) of vacant beds may be utilized for noninstitutional clients.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1318 CHAPTER 859

AN ACT TO AMEND THE MEMBERSHIP COMPOSITION OF THE GOVERNOR'S WASTE MANAGEMENT BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-216.12(a)(2) is rewritten to read:

"(2) Nine members appointed by the Governor from the following categories: one from county government, one from municipal government, two from private industry, two from the field of higher education, research or technology, one who shall be a physician licensed to practice medicine, and two from the public at large interested in environmental matters."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1307 CHAPTER 860

AN ACT TO CREATE THE PUBLIC EDUCATION POLICY COUNCIL.

Whereas, Chapter 1392 of the 1981 Session Laws, Regular Session 1982, created the Select Committee to Study the Department of Public Education; and

Whereas, the Select Committee held a series of public hearings and conducted an intensive investigation of a number of issues relating to public education; and

Whereas, legislation introduced during the 1983 Session of the General Assembly generated much interest among legislators, educational leaders and other interested citizens; and

Whereas, between seventy-five percent (75%) and eighty percent (80%) of the State's General Fund Tax Revenues are spent in support of education at all levels and through various agencies in North Carolina; and

Whereas, the Declaration of Rights in the Constitution of North Carolina guarantees the people the "right to the privilege of education" and makes it the "duty of the State to guard and maintain that right"; and

Whereas, the Constitution of North Carolina mandates that the General Assembly "provide . . . for a general and uniform system of free public schools"; and

Whereas, the General Assembly feels it is necessary to continue to study the fiscal and operational functions of the Department of Public Education so as to guarantee the fundamental right of the people to the privilege of education and to provide for a general and uniform system of free public schools; and

Whereas, there is a need to provide for broad-based participation in this process by educational leaders throughout the State and those who represent the many segments of the educational community; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby created the Public Education Policy Council, to consist of 47 members, chosen as follows:

(1) 10 members of the Senate, appointed by the President Pro Tempore of the Senate, one of whom shall serve as cochairman;

(2) 10 members of the House of Representatives, appointed by the Speaker of the House, one of whom shall serve as cochairman;

(3) 11 members appointed by the Governor, one from each of the State's congressional districts;

(4) the Lieutenant Governor or his designee;

(5) the State Treasurer or his designee;

(6) the Superintendent of Public Instruction or his designee;

(7) the chairman of the State Board of Education or his designee;

(8) the chairman of the Board of Governors of The University of North Carolina or his designee;

(9) the chairman of the Board of Community Colleges or his designee;

(10) one member representing and appointed by the governing boards of each of the following organizations:

a. the North Carolina Association of County Commissioners,

b. the North Carolina School Boards Association,

c. the North Carolina Association of Educators,

d. the North Carolina Federation of Teachers,

e. the North Carolina Association of School Administrators,

f. the North Carolina Principals/Assistant Principals Association,

g. the North Carolina Congress of Parents and Teachers,

h. the North Carolina Association of Educational Office Personnel,

i. the North Carolina Advisory Council on Education, and

j. the North Carolina Association of Classroom Teachers.

The organizations and individuals listed above shall transmit the name and address of each designee or appointee to the Legislative Services Officer within 60 days after the adjournment of the 1983 General Assembly.

Sec. 2. Members of the Council shall be reimbursed for travel and subsistence expenses at the rates set out in G.S. 120-3.1. All expenses of the

Council shall be paid from funds appropriated to the General Assembly. The Legislative Services Officer shall provide staff to the Council.

Sec. 3. The Council shall study the fiscal and operational functions of the Department of Public Education and the responsibilities of the several State and local agencies and units of government that share responsibility for the system of public schools. The study shall include public school laws as well as policies, procedures, philosophy and educational programs of the Department of Public Education and their application.

Sec. 4. The Council shall provide a preliminary report to the 1983 General Assembly, Regular Session 1984 and a final report to the 1985 General Assembly, to be submitted by December 1, 1984. At that time, the Council shall cease to exist. The reports shall include recommendations on providing better educational opportunities to the citizens of the State in a more cost-effective manner. The reports may include proposed legislation, including proposed constitutional amendments and statutory changes as the Council recommends.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1219 CHAPTER 861

AN ACT TO APPROPRIATE FUNDS FOR ELECTRONIC DATA PROCESSING FOR THE DEPARTMENT OF INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Insurance the amount of one hundred seventy thousand dollars ($170,000) for fiscal year 1983-84. This money shall be used to purchase electronic data processing equipment and to employ one computer programmer in order to provide electronic data processing capabilities for the following divisions of the North Carolina Department of Insurance: Licensing; Life, Accident, and Health; Fire and Casualty; and Consumer Insurance Information.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1161 CHAPTER 862

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE COMMITTEE ON ART IN STATE BUILDINGS.

Whereas, Chapter 1384 of the 1981 Session Laws, Regular Session 1982, established the Committee on Art in State Buildings; and

Whereas, this Committee has successfully begun to implement its mandate to promote the inclusion of art works in State buildings; and

Whereas, the Committee used its original $5,000 appropriation to commission a North Carolina painter to produce a work of art for the Legislative Office Building; and

Whereas, the creation of this Committee elicited contributions from North Carolina corporations of art work valued at twice the original appropriation to the Committee; and

Whereas, because of this Committee's supervisory role over art work in State buildings, private donors will probably continue to contribute valuable art work to the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to be used by the Committee on Art in State Buildings in the performance of its duty to promote art work in State buildings. Any unexpended funds remaining at the end of the 1983-84 fiscal year shall not revert to the General Fund but shall remain available to the Department during fiscal year 1984-85 for the purpose stated in this act.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 59 CHAPTER 863

AN ACT TO INCREASE THE MEMBERSHIP OF THE COMMISSION ON CHILDREN WITH SPECIAL NEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-58 is rewritten to read: "§ 120-58. *Creation; appointment of members.*—There is created a Commission on Children with Special Needs to consist of three Senators and one physician licensed to practice in the State of North Carolina, and who is actively involved in the private practice of pediatrics, appointed by the President of the Senate, three Representatives and one public member appointed by the Speaker of the House, and three parents of children with special needs and one public member appointed by the Governor."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 116 CHAPTER 864

AN ACT TO APPROPRIATE FUNDS FOR THE PURPOSE OF IMPLEMENTING H.B. 124, INVOLUNTARY OUTPATIENT COMMITMENT.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund the sum of two hundred fifty thousand dollars ($250,000) for fiscal year 1983-84 to the Department of Human Resources for the purpose of implementing the Outpatient Involuntary Commitment Program (H.B. 124). The funds shall be allocated to area programs on a projected outpatient commitment caseload and area programs shall be reimbursed prospectively on a subsidy not to exceed two thousand dollars ($2,000) per year per case. The Department may allocate no more than ten percent (10%) of the funds for administrative costs.

Sec. 2. There is appropriated from the General Fund the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 to the Administrative Office of the Courts for the purpose of implementing the Outpatient Involuntary Commitment Program (H.B. 124). The funds shall be allocated by the Director

to cover costs related to the development and printing of forms, training of clerks and other costs directly related to the implementation of H.B. 124.

Sec. 3. Section 26 of Chapter 638, Session Laws of 1983, is repealed.

Sec. 4. Section 27 of Chapter 638, Session Laws of 1983, is amended by deleting the words: "Except as provided in Section 26, this", and inserting in lieu thereof "This".

Sec. 5. The Director of the Budget is authorized to make available to the Health Systems Agencies up to three hundred sixty thousand dollars ($360,000) of the funds appropriated to the Department of Human Resources for the 1983-84 fiscal year.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 146 CHAPTER 865

AN ACT TO ESTABLISH THE NORTH CAROLINA INCOME TAX REFUND CHECKOFF PROGRAM FOR THE MANAGEMENT OF NONGAME AND ENDANGERED SPECIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-163.16 is amended by adding a new subsection to read:

"(e) Any taxpayer who shall be entitled to a refund of taxes withheld or estimated taxes paid as provided by this section may elect to contribute all or any part of such refund to the Wildlife Fund for the support of wildlife management and protection programs primarily for nongame wildlife species and wildlife species which are or may hereafter be designated as endangered or threatened. The Secretary shall provide appropriate language and space on the individual income tax form in which to make such election and shall note the same in his instructions as a contribution qualifying as a deduction under G.S. 105-147(16). Any such election shall become irrevocable upon filing the taxpayer's income tax return for the taxable year. All of such contributions shall be transmitted to the State Treasurer for credit to the Wildlife Fund which shall be made available to the Wildlife Resources Commission for the support of management and protection programs primarily for nongame wildlife and endangered and threatened species and to match federal funds which may become available for such purposes."

Sec. 2. General Statutes Chapter 105 is amended by adding thereto a new section to read:

"§ 105-130.35. *Contribution of corporate income tax refunds to Wildlife Fund for management of nongame and endangered species.*—Any taxpayer that is entitled to a refund of taxes paid as provided by this Article may elect to contribute all or any part of such refund to the Wildlife Fund for the support of wildlife management and protection programs primarily for nongame wildlife species and wildlife species which are or may hereafter be designated as endangered or threatened. The Secretary of Revenue shall provide appropriate language and space on the corporation income tax form in which to make such election and shall note the same in his instructions as a contribution qualifying as a deduction under G.S. 105-130.9(2). Any such election shall become irrevocable upon filing the taxpayer's income tax return for the taxable year. All

of such contributions shall be transmitted to the State Treasurer for credit to the Wildlife Fund which shall be made available to the Wildlife Resources Commission for the support of management and protection programs primarily for nongame wildlife and endangered and threatened species and to match federal funds which may become available for such purposes."

Sec. 3. At least seventy-five percent (75%) of the total amount of the funds derived during any year from the contributions made pursuant to this act must be used for nongame, endangered and threatened species, and urban wildlife programs, and the remainder may be used by the Wildlife Resources Commission for other wildlife management programs.

Sec. 4. Notwithstanding G.S. 105-163.16(e) and G.S. 105-130.35, the Department of Revenue may deduct and retain from the funds so contributed an amount equal to the cost of implementing this act, but not to exceed forty-five thousand dollars ($45,000) per fiscal year. Any such retainage is subject to the approval of the Director of the Budget.

Sec. 5. This act shall be effective as to all taxpayers whose taxable years begin on or after January 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 229 CHAPTER 866

AN ACT REQUIRING A COST STATEMENT TO APPEAR ON STATE PUBLICATIONS.

The General Assembly of North Carolina enacts:

Section 1. The third sentence of G.S. 143-168 is repealed.

Sec. 2. G.S. 143-169 (a) is repealed.

Sec. 3. G.S. 143-169.1(a) is amended by changing the period at the end of the subsection to a comma and adding the following language:

"or are recipients contemplated for receipt of the pertinent public document by express provision of statute or judicial order."

Sec. 4. G.S. 143-169.1(b) is rewritten to read:

"(b) For the purposes of this Article, the term 'public document' shall mean any annual, biennial, regular or special report or publication of which at least 200 copies are printed, but shall not include intra-agency communications nor agency correspondence."

Sec. 5. G.S. 143-169.1(c) is rewritten to read:

"(c) For the purposes of this Article, the term 'agency' shall mean and include, as the context may require, State department, institution, commission, committee, board, division, bureau, officer or official; provided, however, the provisions of this section shall not apply to the General Assembly, the Department of Revenue, the Department of Commerce, or to the Administrative Office of the Courts and the court system."

Sec. 6. Article 13 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-170.1. *Statement of cost of public documents.*—Every agency of this State publishing a public document, other than one published for the principal purpose of sale to the public, shall cause the following statement to be printed adjacent to the identification of the agency responsible for the publication:

'(number of copies) copies of this public document were printed at a cost of $____, or $____ per copy.'

For the purposes of this Article the term 'cost' shall include only direct reproduction costs in the form of labor and materials."

Sec. 7. The chief administrator of the agency authorizing the printing is charged with agency compliance with the provisions of this Article.

Sec. 8. This act shall become effective October 1, 1983 and shall apply only to publications printed after the effective date.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 247 CHAPTER 867

AN ACT TO CHANGE THE EMPLOYMENT STATUS OF BLIND PERSONS LICENSED BY THE STATE AND WORKING AS RANDOLPH-SHEPPARD VENDORS UNDER CONTRACT WITH THE DEPARTMENT OF HUMAN RESOURCES.

Whereas, it is desirable that the employment status of blind persons licensed by the State as Randolph-Sheppard vendors be clarified, that those who have already retired continue to receive retirement allowances and that present licensees be allowed to exercise certain options as to their continued status with the North Carolina Teachers' and State Employees' Retirement System; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 111-27.1 is amended by deleting the last sentence thereof and inserting a new paragraph to read:

"After September 30, 1983, Randolph-Sheppard vendors will no longer be State employees. Blind licensees operating vending facilities under contract with the North Carolina Department of Human Resources, Division of Services for the Blind, are independent contractors."

Sec. 2. G.S. 126-5(c) is amended by deleting the phrase "blind or visually handicapped employees of the Department of Human Resources, Division of Services for the Blind, Business Enterprises Section, vending stand employees;".

Sec. 3. G.S. 135-16.1 is amended by designating the two paragraphs as subsections "(a)" and "(b)" respectively and by adding a new subsection designated as "(c)" to read:

"(c) Notwithstanding the foregoing, blind persons licensed by the State and operating vending facilities under contract with the Department of Human Resources, Division of Services for the Blind and its successors, hereinafter referred to as licensed vendors, so licensed on and after October 1, 1983, shall not be members of the Retirement System. All licensed vendors in service or who are members of the Retirement System before October 1, 1983, shall make an irrevocable election to do one of the following:

(1) Continue contributing membership service as if an employee under the same conditions and requirements as are otherwise provided, and have the rights of a member to all benefits and a retirement allowance; or

(2) Receive a return of accumulated contributions with cessation of contributing membership service, under G.S. 135-5(f), and in any event with regular interest regardless of membership service; or

(3) Terminate contributing membership service and be entitled alternatively to the benefits and allowances provided under G.S. 135-3(8) or G.S. 135-5(a)."

Sec. 4. G.S. 135-40.2(b) is amended by the addition of a new subsection designated as "(6)" to read:

"(6) Blind persons licensed by the State to operate vending facilities under contract with the Department of Human Resources, Division of Services for the Blind and its successors, who are:

a. Operating such a vending facility;

b. Former operators of such a vending facility whose service as an operator would have made these operators eligible for an early or service retirement allowance under Article 1 of this Chapter had they been members of the Retirement System; and

c. Former operators of such a vending facility who attain five or more years of service as operators and who become eligible for and receive a disability benefit under the Social Security Act upon cessation of service as an operator."

Sec. 5. G.S. 135-34 is amended by the addition of a sentence at the end thereof to read:

"This program shall include licensed vendors who are members of the Retirement System on account of G.S. 135-16.1(c)(1)."

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 370 CHAPTER 868

AN ACT TO PROVIDE FUNDS FOR THE PERINATAL PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Health Services, Department of Human Resources, the sum of six hundred thousand dollars ($600,000) for fiscal year 1983-84 to provide funds for the inpatient hospital and physician services of the Perinatal Program.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 419 CHAPTER 869

AN ACT REGARDING REVERSION OF FUNDS APPROPRIATED FOR A STUDY OF THE WHITE OAK RIVER FOR FISCAL YEARS 1981-82 AND 1982-83.

The General Assembly of North Carolina enacts:

Section 1. Funds appropriated to the Department of Natural Resources and Community Development for fiscal years 1981-82 and 1982-83 by Chapter 1023 and Chapter 1329 of the 1981 Session Laws shall not revert to the General Fund but shall remain available to the Department until expended.

Sec. 2. The funds covered by this act may be expended for the continuation of the engineering studies authorized by Chapters 1023 and 1329, for the implementation of Study recommendations, and for related follow-up

and coordination activities by the Department and by the White Oak River Advisory Council.

Sec. 3. This act is effective June 30, 1983.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 433 CHAPTER 870

AN ACT TO PROVIDE THAT THE GUARDIAN AD LITEM APPOINTED FOR A JUVENILE ALLEGEDLY ABUSED OR NEGLECTED MAY PETITION FOR TERMINATION OF PARENTAL RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-289.24 is amended by deleting the period at the end of subdivision (5), by substituting the phrase "; or", and by adding a new subdivision (6) to read:

"(6) Any guardian *ad litem* appointed to represent the minor child pursuant to G.S. 7A-586, who has not been relieved of this responsibility and who has served in this capacity for at least one continuous year."

Sec. 2. G.S. 7A-289.29(b) is amended at the end of the first sentence by inserting between the word "child" and the period the following language: ", unless the petition was filed by the guardian *ad litem* pursuant to G.S. 7A-289.24(6). A licensed attorney shall be appointed to assist those guardians *ad litem* who are not attorneys licensed to practice in North Carolina".

Sec. 3. G.S. 7A-289.33(1) is amended by inserting immediately after the phrase "of such filing of the petition," the phrase "including a petition filed pursuant to G.S. 7A-289.24(6),".

Sec. 4. This act is effective upon ratification and applies to petitions filed on or after this date.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 437 CHAPTER 871

AN ACT TO PROVIDE INCENTIVE PAY FOR STATE EMPLOYEES FOR GAINS IN ECONOMY AND EFFICIENCY IN THE RENDERING OF GOVERNMENTAL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Article 11 of Chapter 126 of the General Statutes is rewritten to read:

"ARTICLE 11.

"Committee For Incentive Pay For State Employees.

"§ 126-64. *Committee established.*—There is hereby created the Committee for Incentive Pay for State Employees, hereinafter referred to as 'the Committee'. The committee is hereby empowered and authorized to adopt policies and procedures to establish and administer an incentive pay program for State employees. The committee shall consist of seven members as follows:

(1) The Secretary of Administration who shall be the chairperson.

(2) A representative from the Office of State Budget.

(3) A representative from the Office of State Personnel.

(4) A department head appointed by the Governor.

(5) A non-State government representative appointed by the Governor.

(6) A non-State government representative appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121.

(7) A non-State government representative appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

Each of the non-State government representatives shall have experience in administering incentive pay programs as used in industry. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

"§ 126-65. *Application for incentive awards.*—With the exception of agencies and offices within the General Assembly, the Governor's Office, the Lieutenant Governor's Office, and the Department of the State Auditor, any agency or office of State government (i) having an identifiable self-contained budget, or (ii) having its financial records maintained according to an accounting system which identifies to the satisfaction of the State Auditor the expenditures and receipts properly attributable to that agency or office may make application to the committee for selection as a candidate for the award of incentive pay to its employees. Such application must be submitted at least three months prior to the beginning of any fiscal year and must have the approval of the head of the State department within which the unit is located.

Applications shall be in the format specified by the committee and shall contain such information as it may require, including but not limited to those evaluation components developed by the applying agency or office which will provide quantitative measures of program output and performance.

The committee shall evaluate the applications submitted. From those proposals which are considered to be reasonable and practical, and which are found to include developed performance indicators which lend themselves to a judgment of success or failure, the committee shall select the agencies and offices to participate in the incentive pay program for the fiscal year.

"§ 126-66. *Qualifications.*—(a) To qualify for the award of incentive pay to its employees, an agency or office selected must demonstrate to the satisfaction of the committee that it has met both of the following two criteria in its operations during the fiscal year, after adjustment for inflation or deflation:

(1) Operated at a lower 'unit cost.' Unit cost shall be defined as expenditures in dollars to complete a measurable unit of work.

a. For first time participants the unit cost for the participating year shall be compared to either the unit cost for the immediately preceding fiscal year or a standard unit cost approved by the committee.

b. For participants with one or more years in the program, the unit cost for the participating year shall be compared to either the average unit cost of prior successful participating years in the program or a standard unit cost approved by the committee; and

(2) Operated at no greater total dollar expenditures, except:

a. In a case where unit cost(s) are reduced but total expenditures increase due to the agency or office maintaining its level of service; or

b. In a case where the legislature or department head specifically mandates an increase in the workload.

(b) The committee shall satisfy itself that the claimed unit dollar cost of operation is real and not merely apparent, and that it is not, in whole or in part, the result of:

(1) a lowering of the level or quality of the service rendered;

(2) reduced pass-through on transfer expenditures;

(3) receipts realized in excess of amounts budgeted;

(4) nonrecurrence of expenditures which were single outlay, or one-time expenditures, in the preceding fiscal year;

(5) failure to reward deserving employees through promotions, reclassificiation, award of merit salary increments, or salary increases authorized by salary range revisions;

(6) postponement of normal purchases and repairs to a future fiscal year;

(7) stockpiling inventories in the immediately preceding fiscal year so as to reduce requirements in the eligible fiscal year;

(8) substitution of federal funds, other receipts, or non-State funds for State appropriations;

(9) unreasonable postponement of payments of accounts payable until the fiscal year immediately following the eligible fiscal year;

(10) shifting of expenses to another agency or office of government;

(11) any other practice, event, or device which the committee decides has caused a distortion which misrepresents that a savings or increase in level of services has occurred.

(c) Conversely, the committee may consider, but is not limited to considering, as legitimate savings those reductions in expenditures made possible by such items as the following:

(1) reductions in overtime;
(2) elimination of consultant fees;
(3) less temporary help;
(4) elimination of budgeted positions;
(5) improved methods of communication;
(6) improved systems and procedures;
(7) better development and utilization of manpower;
(8) elimination of unnecessary travel;
(9) elimination of unnecessary printing and mailing;
(10) elimination of unnecessary payments for advertising, memberships, dues, subscriptions, etc.
(11) elimination of waste, duplication, and operations o doubtful value;
(12) improved space utilization;
(13) proven cost reduction techniques;
(14) any other items considered by the committee as representing true savings.

"§ 126-67. *Awards.*—At the conclusion of the eligible fiscal year, the committee shall compare the unit dollar expenditures for that year of each agency or office selected against the base year(s) data and, after making such adjustments as in its judgment are required to eliminate distortions, shall determine the amount, if any, that the agency or office has reduced its unit dollar cost of operations or increased its level of services in the eligible fiscal year. Adjustments to eliminate distortions may include any legislative increases in employee compensation and inflationary increases in the cost of services,

materials and supplies. If the committee shall also determine that in its judgment an agency or office qualifies for award, it is hereby authorized to award, after consultation with the Advisory Budget Committee, to the employees of that agency or office a sum not in excess of twenty-five percent (25%) of the amount determined to be the total unit dollar savings to the State for the level of services rendered. Incentive pay awards provided under this Chapter shall be exempt from retirement contributions and shall not be included for the purpose of computing a retirement allowance under any public retirement system of this State. The amount awarded shall be divided and distributed in equal shares to the employees of the agency or office except that employees who worked for that unit less than the full 12 months of the fiscal year shall receive only a pro rata share based on the fraction of the year to the day worked for that agency or office. Employees leaving voluntarily to work outside of State government, or employees dismissed for cause will forfeit their share. Funds for this incentive pay shall be drawn from the agency's or office's principal department's ending balance for the eligible fiscal year.

"§ 126-68. *Annual report.*—The Secretary of Administration shall cause to be prepared and submitted to the General Assembly a comprehensive annual status report on the committee's activities, decisions, awards, and recommendations with respect to the employee incentive pay program."

Sec. 2. Section 3 of Chapter 945, Session Laws of 1979, is amended by deleting "and will expire July 1, 1984", and inserting in lieu thereof "and will expire July 1, 1989".

Sec. 3. G.S. 120-123(16) is amended by deleting the words "Review of Applications for".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 458 CHAPTER 872

AN ACT TO ENABLE ALL PUBLIC SCHOOL EMPLOYEES TO EARN AND ACCUMULATE ANNUAL VACATION LEAVE AT THE SAME RATE AS THAT PROVIDED FOR STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-272(b)(1) is amended by rewriting the second sentence to read as follows:

"Included within their term of employment shall be annual vacation leave at the same rate provided for State employees."

Sec. 2. G.S. 115C-285(a)(1) is amended by rewriting the second sentence to read as follows:

"They shall earn annual vacation leave at the same rate provided for State employees. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at the time agreed upon by the employee and his immediate supervisor."

Sec. 3. G.S. 115C-302(a)(1) is amended by rewriting the fourth sentence to read as follows:

"Included within the 10 calendar months employment shall be annual vacation leave at the same rate provided for State employees, computed at one-twelfth (1/12) of the annual rate for State employees for each calendar month of employment; which shall be provided by each local board of education at a time when students are not scheduled to be in regular attendance."

Sec. 4. G.S. 115C-302(a)(3) is amended by rewriting the last sentence to read as follows:

"The first 10 days of annual vacation leave earned by a teacher during any fiscal year period shall be scheduled to be used in the school calendar adopted by the respective local boards of education. Vacation days shall not be used for extending the term of employment of individuals. Teachers may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until December 31 of each year. On December 31 of each year, any teachers with more than 30 days of accumulated leave shall have the excess accumulation cancelled so that only 30 days are carried forward to January 1 of the next year. All vacation leave taken by the teacher will be upon the authorization of his immediate supervisor and under policies established by the local board of education. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours when separated from service due to resignation, dismissal, reduction in force, death, or service retirement. If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining non-workdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision."

Sec. 5. G.S. 115C-316(a)(1) is amended by rewriting the second sentence to read as follows:

"Included within their term of employment shall be annual vacation leave at the same rate provided for state employees, computed at one-twelfth (1/12) of the annual rate for state employees for each calendar month of employment. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor or principal."

Sec. 6. G.S. 115C-316(a)(2) is amended by rewriting the fourth sentence to read as follows:

"Included within the term of employment shall be provided for full-time employees annual vacation leave at the same rate provided for State employees, computed at one-twelfth (1/12) of the annual rate for State employees for each calendar month of employment, to be taken under policies determined by each local board of education. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor or principal."

Sec. 7. G.S. 115C-316(a)(3) is amended by deleting the language following the first sentence in the subdivision and inserting in lieu thereof the following:

"The first 10 days of annual leave earned by a 10- or 11-month employee during any fiscal year period shall be scheduled to be used in the school calendar adopted by the respective local boards of education. Vacation days shall not be used for extending the term of employment of individuals. Ten- or 11-month employees may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until December 31 of each year. On December 31 of each year, any of these employees with more than 30 days of accumulated leave shall have the excess accumulation cancelled so that only 30 days are carried forward to January 1 of the next year. All vacation leave taken by these employees will be upon the authorization of their immediate supervisor and under policies established by the local board of education. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours when separated from service due to resignation, dismissal, reduction in force, death or service retirement. If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining non-workdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision."

Sec. 8. The State Board of Education is hereby directed to adopt annual leave policies for public school employees in accordance with the above and to develop appropriate annual leave rate schedules for 10-month, 11-month, and 12-month employees. However, due to emergency situations which may occur on a day when students are in attendance, the State Board of Education shall continue provisions for personal leave for teachers and other instructional support personnel.

Sec. 9. The State Board of Education, Controller's Office, in cooperation with the Office of State Budget and Management, shall develop procedures which school units shall follow in determining the use of available salary funds in order to pay for accumulated annual leave when an employee is separated from employment.

Sec. 10. The State Board of Education is further directed to adopt sick leave policies for public school employees, insofar as is practicable, which are comparable with policies for State employees.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 461

CHAPTER 873

AN ACT TO EXEMPT NEWSPAPER ADVERTISING SUPPLEMENTS FROM THE NORTH CAROLINA SALES TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13 is amended by adding:

"(36) Advertising supplements and any other printed matter ultimately to be distributed with or as part of a newspaper."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 495

CHAPTER 874

AN ACT TO MAKE INTERSTATE TRANSFERS OF PRISONERS MORE OPEN TO PUBLIC SCRUTINY.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Article 12 of General Statutes Chapter 148 to read:

"§ 148-121. *Proceedings to be open; all documents public records.*—(a) Except as provided in subsection (c) of this section, at least 30 days before a transfer of a North Carolina inmate to another state system pursuant to this Article is approved, the Secretary of Correction shall give notice that the transfer is being considered. The Secretary shall give notice of the proposed transfer by:

(1) notifying the district attorney of the district where the prisoner was convicted, the judge who presided at the prisoner's trial, the law enforcement agency that arrested the prisoner, and the victim of the prisoner's crime;

(2) posting notice at the courthouse in the county in which the prisoner was convicted; and

(3) notifying any other person who has made a written request to receive notice of a transfer of the prisoner.

(b) Except as provided in subsection (c) of this section, all written comments regarding a transfer are public records under General Statutes Chapter 132.

(c) If, in the discretion of the Secretary, such notice or disclosure requirements provided for in this section would jeopardize the safety of persons or property, the provisions of this section do not apply."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 518 **CHAPTER 875**

AN ACT TO CREATE THE LEGISLATIVE COMMISSION ON MEDICAL COST CONTAINMENT.

Whereas, the 1977 General Assembly created the Legislative Commission on Medical Cost Containment; and

Whereas, that Commission's report led to enactment of the certificate of need law; and

Whereas, there is still concern about the containment of medical costs; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is created the Legislative Commission on Medical Cost Containment.

Sec. 2. Duties of the Commission. The Commission may study the present health care system in North Carolina and the cost trends associated with that system. The Commission may also study the cost trends resulting from the problem of the collection of hospital bad debts. The Commission shall review North Carolina's Medicaid program and the cost trends associated with that program. The Commission shall review medical cost containment programs that have been established in North Carolina and other states. The Commission may study the composition, funding structure, staffing, hearing procedures, public comment procedures, and any other aspects of the operation of the Health Systems Agencies deemed appropriate by the Commission. In the course of its hearings the Commission shall receive testimony from consumers, providers of medical services, or their representative State agencies involved in the delivery and the regulation of medical services, representatives of the health insurance industry, and representatives of private industry.

The Commission shall specifically study hospital rate review programs. The Commission shall also study the experience of the North Carolina certificate of need law.

Sec. 3. (a) The Commission shall consist of 12 members appointed as follows:

(1) Six members appointed by the President Pro Tempore of the Senate, two of whom are members of the Senate, one of whom is a hospital administrator, nominated by the North Carolina Hospital Association, one of whom is a physician licensed to practice medicine and nominated by the North Carolina Medical Society, one of whom is to represent a health insurer licensed under Chapter 57 of the General Statutes, and one of whom shall represent the public at large.

(2) Six members appointed by the Speaker of the House of Representatives, two of whom are members of the House of Representatives, one of whom is a trustee of a hospital board, one of whom is a registered nurse, one of whom is to represent a health insurer licensed under Chapter 58 of the General Statutes, and one of whom shall represent the public at large.

(b) The members of the Commission shall be appointed within 30 days of ratification of this act and they shall serve until termination of the Commission.

(c) If a vacancy occurs in the membership of the Commission, it shall be filled by action of the officer who appointed the former member who is to be

replaced, and the person then appointed shall serve for the remainder of the term of the member whom he succeeds.

(d) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall appoint cochairmen for the Commission.

Sec. 4. Staff support for the Commission. In executing its duties the Commission is authorized to hire such professional assistance and secretarial support as it deems necessary. The Commission is also authorized to utilize the staff of the Legislative Services Office. Commission members are authorized to receive subsistence and mileage at the statutory rates in lieu of compensation.

Sec. 5. The Commission may, with the approval of the Legislative Services Commission, meet in the State Legislative Building or the Legislative Office Building.

Sec. 6. Reports by the Commission. The Commission shall file an interim report with the President Pro Tempore of the Senate and the Speaker of the House of Representatives by April 1, 1984. The Commission shall file its final report with the President Pro Tempore of the Senate and the Speaker of the House of Representatives by April 1, 1985. The final report of the Commission shall summarize the information obtained in the course of its inquiry, set forth any findings and conclusions, and recommend such administrative actions or legislative actions as may be necessary to contain rising medical costs. If legislation is recommended, the Commission shall prepare and submit with its report appropriate bills. Upon termination of the Commission, the chairman shall transmit to the Legislative Library for preservation the records and papers of the Commission. The Commission shall terminate upon the filing of its report.

Sec. 7. There is appropriated from the General Fund to the General Assembly for fiscal year 1983-84 the sum of fifteen thousand dollars ($15,000) to implement this act.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 552 CHAPTER 876

AN ACT TO APPROPRIATE FUNDS FOR THE STATE ADULT DAY-CARE PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services, the sum of one hundred thousand dollars ($100,000) for fiscal year 1983-84 to provide necessary funds for the State Adult Day-Care Program.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 554 **CHAPTER 877**

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF JUSTICE TO PROVIDE FOR IMPLEMENTATION OF THE RADAR ACT.

The General Assembly of North Carolina enacts:

Section 1. In addition to any other appropriation, there is appropriated from the General Fund to the Department of Justice for fiscal year 1983-84 the sum of ninety-three thousand three hundred sixty-eight dollars ($93,368) in order to certify North Carolina law enforcement officers in the use of radio microwave or other speed measuring instruments as required by G.S. 8-50.2. This appropriation shall become part of the continuation budget.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 688 **CHAPTER 878**

AN ACT URGING THE SECOND SESSION OF THE 1983 GENERAL ASSEMBLY TO CONSIDER ADOPTING AN UNREDUCED RETIREMENT ALLOWANCE FOR TEACHERS, STATE EMPLOYEES AND LAW ENFORCEMENT OFFICERS WITH TWENTY-EIGHT YEARS' OF SERVICE.

Whereas, private employers have realized substantial payroll savings from allowing earlier employee retirements; and

Whereas, earlier retirements can reduce the need for involuntary layoffs of employees; and

Whereas, earlier retirements can help alleviate the problems of employee "burn-out", resulting in less productive workers; and

Whereas, earlier retirements can greatly open and expand career paths for younger employees; and

Whereas, earlier retirements can offer many employees the challenges of a second career; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The 1984 Second Session of the 1983 General Assembly is urged to give due consideration to enacting an unreduced service retirement for members of the Teachers' and State Employees' Retirement System and for members of the Law Enforcement Officers' Retirement System upon the completion of 28 years of creditable membership service.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 601 **CHAPTER 879**

AN ACT TO APPROPRIATE FUNDS FOR "SIGNAL 25 COMMUNICATORS" FOR THE HIGHWAY PATROL.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Crime Control and Public Safety for fiscal year 1983-84 the sum of seventy-five thousand dollars ($75,000) for "Signal 25 Communicators" for the Highway Patrol.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 570 **CHAPTER 880**

AN ACT TO AUTHORIZE A REVIEW OF THE STATE'S DISABILITY DETERMINATION SERVICES.

Whereas, the State of North Carolina has a direct interest in the manner in which disability determinations are made; and

Whereas, recent changes in federal law and the rules and regulations of the Social Security Administration have led to the termination of thousands of North Carolinians from eligibility under the Title II and Title XVI Social Security disability programs; and

Whereas, due in part to discrepancies between federal court holdings and the directives of the Social Security Administration, the findings of the Disability Determination Services Section are being overruled on appeal in over two thirds of the cases; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is created the Disability Review Commission to review the operations of the North Carolina Disability Determination Services Section of the Division of Social Services.

Sec. 2. The Commission shall consist of 10 members, as follows: The Secretary of the Department of Human Resources shall serve ex officio, and the Director of the Division of Vocational Rehabilitation Services shall serve ex officio. The President of the Senate shall appoint two members of the Senate and the Speaker of the House of Representatives shall appoint two members of the House of Representatives. The Governor shall appoint four members, one of whom shall be a member of the general public receiving Social Security disability benefits, another one shall be a lawyer experienced in the field of application procedures and appeals procedures with respect to disability claims, another one shall be an administrative law judge, active or retired, who has had experience in hearing Social Security disability appeals, and another one shall be a regional officer representing the federal Social Security agency. Any vacancy shall be filled by the appointing authority who appointed the person causing the vacancy. All initial appointments shall be made within one calendar month of the effective date of this act.

Sec. 3. The Commission shall meet initially no later than September 1, 1983, at the call of the Secretary of the Department of Human Resources and shall elect from its membership a chairman and a vice-chairman. The Commission shall meet upon the call of the chairman.

Sec. 4. The Commission members shall receive no salary for serving on the Commission but shall receive necessary subsistence and travel expenses in accordance with the provisions of G.S. 138-5 and G.S. 138-6.

Sec. 5. The study may include the following areas: an investigation and study relative to the quality and conduct of the Disability Determination Services Section; a consideration of the unit's response to recent federal guidelines concerning case reviews; a review of the quality and efficacy of initial determinations and subsequent appeals as well as of the determination to terminate eligibility under the Social Security disability programs; and the basic application and appeal procedures, and any other related matters.

Sec. 6. The Disability Determination Services Section shall provide full cooperation to the Commission, including direct and unrestricted access to all records, papers and files, provided that any patient records examined shall have patient identifying information removed.

Sec. 7. The Commission may hold public meetings across the State to solicit public input with respect to the operation of the Disability Determination Services Section at times and places to be established by the chairman.

Sec. 8. The Commission may report to the General Assembly and the Governor the results of its investigation and study, and its recommendations, before April 30, 1984.

Sec. 9. There is appropriated from the General Fund to the General Assembly the sum of twenty thousand dollars ($20,000) for the fiscal year 1983-84 to fund the study authorized by this act.

Sec. 10. In executing its duties the Commission is authorized to hire such professional assistance and secretarial support as it deems necessary. The Commission is also authorized to utilize the staff of the Legislative Services Office as it deems appropriate.

Sec. 11. The Commission may, with the approval of the Legislative Services Commission, meet in the State Legislative Building or the Legislative Office Building.

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 33 CHAPTER 881

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS.

The General Assembly of North Carolina enacts:

Section 1. In addition to any other appropriations, there is appropriated from the General Fund to the Administrative Office of the Courts for fiscal year 1983-84 the following amounts for the following purposes:

(a) Seven hundred fifty thousand dollars ($750,000) for equipment;

(b) Two hundred fifty thousand dollars ($250,000) for personnel; and

(c) One million two hundred forty-four thousand five hundred dollars ($1,244,500) to fund the fee increases in Sections 2, 3, and 4 of this act.

Sec. 2. G.S. 7A-312 is amended by substituting the words and figures "twelve dollars ($12.00)" for the words and figures "eight dollars ($8.00)".

Sec. 3. G.S. 7A-312 is further amended by rewriting the fifth sentence to read: "A juror in a special proceeding shall receive six dollars ($6.00) for each proceeding, except that if a special proceeding lasts more than one-half day, the special jurors shall receive ten dollars ($10.00) per day."

Sec. 4. G.S. 7A-306(c)(6) is rewritten to read:

"Fees for special jury, if any, at six dollars ($6.00) per special juror for each proceeding, except that if a special proceeding lasts more than one-half day each juror shall receive ten dollars ($10.00) per day."

Sec. 5. G.S. 7A-133 is amended in the table by changing the notations under those counties with respect to the minimum and maximum number of magistrates to read:

District	County	Magistrates	
		Min.	Max.
1	Dare	3	5
2	Hyde	2	4
16	Scotland	3	5
23	Yadkin	3	5

Sec. 6. For the purpose of experimenting with the effect on the overall cost of providing counsel to indigent persons in the Third Judicial District, no attorney from the Public Defender's Office in that District shall be appointed to represent indigent persons in Craven and Pamlico Counties during the 1983-84 fiscal year. There shall be made available to the other six existing public defender offices five assistant public defender positions, two of which shall be transferred from the public defender's office in the Third Judicial District; and three of which shall be new positions to be funded by the Indigent Persons Attorney Fee Fund, notwithstanding the provisions of Section 158 of 1983 Session Laws Chapter 761.

Sec. 7. The Administrative Office of the Courts is authorized to create five temporary clerical positions pursuant to G.S. 7A-102 for the purpose of allowing the Administrative Office of the Courts to experiment with detailed scrutiny of affidavits of indigency for the purpose of effecting a savings in the Indigent Persons' Attorney Fee Fund. Such temporary positions shall exist for a period of no longer than eight months from their creation. On or before May 1, 1984, the Administrative Office of the Courts shall report the results of this experiment with findings and recommendations to the General Assembly.

Sec. 8. 1983 Session Laws Chapter 761 is amended as follows:

(a) In Section 198, the salary amount of the Assistant Administrative Officer of the Courts is rewritten to read: "$44,820".

(b) In Section 2, the amounts appropriated to the Judicial Department are rewritten as follows: $86,906,705 for fiscal year 1983-84, and $87,181,828 for fiscal year 1984-85; and

(c) In Section 2, by rewriting the amounts of the GRAND TOTAL CURRENT OPERATIONS—GENERAL FUND as follows: $3,759,155,107 for fiscal year 1983-84 and $3,785,715,219 for fiscal year 1984-85.

Sec. 9. The Administrative Officer of the Courts is authorized to develop and implement a formula for the allocation among the State's counties of assistant and deputy clerks of court; provided that there shall be a minimum of one assistant and one deputy clerk of court in each county. The Administrative Officer of the Courts, in developing such formula, may consider each county's population, caseload, and any other factors that he deems to be

relevant. In the event any Office of the Clerk of Superior Court at any time exceeds its allocation as stated in such formula, any subsequent vacancies in the positions of assistant or deputy clerk shall not be filled unless it is necessary to comply with such formula.

Sec. 10. In addition to any other appropriations, there is appropriated from the General Fund to the Department of Crime Control and Public Safety for fiscal year 1983-84 the sum of one hundred fifty thousand dollars ($150,000) to fund the Community Services Punishment Program.

Sec. 11. Section 8 of this act is effective July 1, 1983. The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 478 CHAPTER 882

AN ACT TO APPROPRIATE FUNDS TO THE DIVISION OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES OF THE DEPARTMENT OF HUMAN RESOURCES FOR THE PURPOSE OF INCREASING ADULT DEVELOPMENTAL ACTIVITY PROGRAMS' MONTHLY SUBSIDY.

Whereas, approximately 3,388 clients are currently supported, in part, by State funds in Adult Developmental Activity Programs; and

Whereas, the subsidy for these programs has remained the same since 1980 and costs continue to rise; and

Whereas, these programs are necessary for the development of individual abilities and the maintenance of those receiving services in the community; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Mental Health, Mental Retardation and Substance Abuse Services, Department of Human Resources for fiscal year 1983-84 the sum of eight hundred thirteen thousand one hundred twenty dollars ($813,120) to provide for an increase in the monthly subsidy to one hundred ninety-one dollars ($191.00) per month for Adult Developmental Activities Programs for clients who receive this subsidy.

Sec. 2. This act is effective July 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 524 CHAPTER 883

AN ACT TO REPEAL ALL ADMINISTRATIVE RULES ADOPTED UNDER THE A.P.A. ABSENT APPROVAL BY THE GENERAL ASSEMBLY AND TO REPEAL G.S. 143B-153.1.

The General Assembly of North Carolina enacts:

Section 1. All rules adopted under the provisions of Article 2 of Chapter 150A of the General Statutes which are in effect on January 1, 1985, are repealed effective July 1, 1985, unless approved by the 1985 Session of the General Assembly. The approval of rules by the General Assembly shall not be

deemed to enact the approved rules or to prohibit their subsequent amendment, repeal, or recodification by the agency.

Sec. 2. G.S. 143B-153.1 is repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1191 CHAPTER 884

AN ACT TO EXEMPT PRIVATE HOMES OFFERING BED AND BREAKFAST ACCOMMODATIONS FROM THE FOOD AND LODGING REQUIREMENTS OF THE PUBLIC HEALTH LAWS AND TO AUTHORIZE THE HEALTH SERVICES COMMISSION TO ADOPT RULES BY JULY 1, 1984.

The General Assembly of North Carolina enacts:

Section 1. G.S. 72-49 is amended by adding a new first sentence to the end to read:

"This Article shall not apply to private homes offering bed and breakfast accommodations to eight or less persons per night until such time as the Health Services Commission adopts rules regulating them in accordance with this Article. The Commission is authorized and directed to adopt reasonable rules pursuant hereto to become effective no later than July 1, 1984."

Sec. 2. The Codifier of Statutes may, pursuant to G.S. 164-10(f), codify Section 1 of this act wherever appropriate in the Public Health Laws.

Sec. 3. Section 1 of this act is effective upon ratification. Section 2 of this act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1329 CHAPTER 885

AN ACT TO INCREASE THE RATE OF SUPPORT IN SPECIALIZED COMMUNITY RESIDENTIAL CENTERS SERVING MENTALLY RETARDED CHILDREN.

Whereas, G.S. 122-71.5 authorizes the General Assembly to appropriate from the General Fund sums sufficient to support specialized community residential centers serving mentally retarded children; and

Whereas, in its session in 1979 the General Assembly increased the rate of support per child to six hundred seventy-five dollars ($675.00) per month; and

Whereas, the rate of support per child was administratively increased on July 1, 1981, to nine hundred thirteen dollars ($913.00) per month by virtue of two participating centers realizing Title XIX reimbursements; and

Whereas, in October 1981 the rate of support per child was increased to one thousand dollars ($1000) per month through utilization of one hundred eight thousand five hundred seventy-six dollars ($108,576) per year of the appropriation commonly referred to as the "Fenner Bill"; and

Whereas, the support per child referenced above is substantially less than the present cost of care in specialized community residential centers; and

Whereas, without additional support, staffs will have to be reduced and the quality and quantity of programs provided by the centers will have to be compromised; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources for fiscal year 1983-84 the sum of one hundred sixty thousand eight hundred dollars ($160,800) to increase the per child per month rate of support to one thousand one hundred dollars ($1,100) for specialized community residential centers serving mentally retarded children.

Sec. 2. This act is effective July 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 1469 CHAPTER 886

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the Speaker of the House of Representatives; and

Whereas, the Speaker of the House of Representatives has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Edwin E. Rankin of McDowell County and Robert Martin of Pitt County are appointed to the Board of Public Telecommunications Commissioners for terms to expire on June 30, 1985.

Sec. 2. Robert Z. Falls of Cleveland County is appointed to the Board of Transportation for a term to expire on June 30, 1985.

Sec. 3. Theo H. Pitt, Jr. of Nash County is appointed to the Board of Trustees Teachers' and State Employees' Retirement System for a term to expire on June 30, 1985.

Sec. 4. Charles Pinkney Francis of Haywood County and Dr. Garrett A. Smathers of Haywood County are appointed to the Environmental Management Commission for terms to expire on June 30, 1985.

Sec. 5. Ernest Leroy Carraway of Bertie County is appointed to the State Fire Commission for a term to expire on June 30, 1985.

Sec. 6. Ray P. Rouse of Lenoir County is appointed to the Public Officers and Employees Liability Insurance Commission for a term to expire on June 30, 1985.

Sec. 7. Sankey Wright Robinson of Columbus County is appointed to the North Carolina Criminal Justice Education and Training Standards Commission for a term to expire on June 30, 1985.

Sec. 8. Mickey Hanula of Wake County and A. Bruce Levin of Forsyth County are each appointed to the Board of Directors of the North Carolina Housing Finance Agency for terms to expire on June 30, 1985. These are the two appointments without statutory requirement for special qualifications. William W. Whittington of Lenoir County is appointed to the Board of Directors of the North Carolina Housing Finance Agency for a term to expire on June 30, 1985. This is the categorical appointment for a mortgage servicing representative. Michael E. Ferguson of Haywood County is appointed to the Board of Directors of the North Carolina Housing Finance Board of Directors for a term to expire

on June 30, 1985. This is the categorical appointment for a licensed realtor representative.

Sec. 9. Stanley Chris Payne of Dare County is appointed to the North Carolina Seafood Industrial Park Authority for a term to expire on June 30, 1985.

Sec. 10. James H. Randolph III of Harnett County is appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for a term to expire on June 30, 1985. David Wyatt of Madison County is appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for a term to expire on June 30, 1985. This appointment is the categorical appointment for a school principal.

Sec. 11. Helen Roach of Rockingham County is appointed to the North Carolina Board of Science and Technology for a term to expire on June 30, 1985.

Sec. 12. Clifton H. Moore of Currituck County is appointed to the State Farm Operations Commission for a term to expire on June 30, 1985.

Sec. 13. Theo H. Pitt, Jr. of Nash County is appointed to the Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund for a term to expire on June 30, 1985.

Sec. 14. Margaret Taylor of Wake County is appointed to the Board of Trustees of the North Carolina Museum of Art for a term to expire on June 30, 1985.

Sec. 15. Ben W. Aiken of Wake County and Reverend J. Murphy Smith of Craven County are appointed to the Commission for Mental Health, Mental Retardation, and Substance Abuse Services for terms to expire on June 30, 1985.

Sec. 16. William E. Holman of Wake County is appointed to the Governor's Waste Management Board for a term to expire on June 30, 1985.

Sec. 17. Lewis Morris Fetterman of Sampson County and Frank B. Holding of Johnston County are appointed to the North Carolina Ports Authority for terms to expire on June 30, 1985.

Sec. 18. Clarence E. Leatherman of Lincoln County is appointed to the Property Tax Commission for a term to expire on June 30, 1985.

Sec. 19. Arnold Locklear of Robeson County is appointed to the Commission of Indian Affairs for a term to expire on June 30, 1985.

Sec. 20. Donald Allen Thompson of Montgomery County is appointed to the Wildlife Resources Commission for a term to expire on June 30, 1985.

Sec. 21. Pat Lloyd of Mecklenburg County is appointed to the Governor's Advocacy Council for Persons with Disabilities for a term to expire on June 30, 1985.

Sec. 22. Douglas C. Forrest of Jackson County is appointed to the Committee on Art in State Buildings for a term to expire on June 30, 1985.

Sec. 23. Charles E. Hubbard of Person County and Jimmy L. Moore of Jackson County are appointed to the North Carolina Capital Building Authority for terms to expire on June 30, 1985.

Sec. 24. Russell E. Davenport of Cumberland County is appointed to the North Carolina Milk Commission for a term to expire on June 30, 1985. This is the categorical appointment for a processor-distributor. Kathryn G. Kirkpatrick of Haywood County is appointed to the North Carolina Milk Commission for a term to expire on June 30, 1984. This is the categorical appointment for a public member.

Sec. 25. Robert H. Gage of Burke County is appointed to the State Banking Commission for a term to expire on April 1, 1987.

Sec. 26. Thomas J. Hackney, Jr. of Wilson County and John T. King of Cabarrus County are appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for terms expiring on June 30, 1985. James B. Childress of Jackson County is appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring on June 30, 1984.

Sec. 27. John S. Stevens of Buncombe County is appointed to the Board of Trustees of The University of North Carolina Center for Public Television for a term to expire on June 30, 1985.

Sec. 28. Dr. G. Kenneth Miller of Rockingham County is appointed to the State Board of Chiropractic Examiners for a term to expire on June 30, 1985.

Sec. 29. Gareth Jones of Wayne County is appointed to the North Carolina Manufactured Housing Board for a term to expire on September 30, 1985. This is a categorical appointment for a representative of the insurance industry. Robert Kirby of Mecklenburg County is appointed to the North Carolina Manufactured Housing Board for a term to expire on September 30, 1985. This is a categorical appointment for a representative of the banking and finance industry.

Sec. 30. E. Y. Ponder of Madison County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term to begin on September 1, 1983, and to expire on August 31, 1985.

Sec. 31. Adam Barlett, Jr., of Buncombe County is appointed to the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan for a term to expire on June 30, 1985.

Sec. 32. Bob R. Moye of Pitt County is appointed to the Private Protective Services Board for a term to expire on June 30, 1984. Paul Davis of Moore County is appointed to the Private Protective Services Board for a term to expire on June 30, 1985. Julius Rowan Cauble of Buncombe County is appointed to the Private Protective Services Board for a term to expire on June 30, 1986.

Sec. 33. Lynda B. Cowan of Jackson County, Dr. James Colson of Wake County, and Dr. James D. Reid of Davidson County are appointed to the North Carolina Board for Need-Based Student Loans for terms to expire on July 1, 1986.

Sec. 34. Michael E. Ferguson of Haywood County and Jimmy L. Moore of Jackson County are appointed to the North Carolina Housing Commission for terms to expire on June 30, 1986. Mickey Hanula of Wake County is appointed to the North Carolina Housing Commission for a term to expire on June 30, 1985.

Sec. 35. Ellis W. Carson of Vance County is appointed to the Alarm Systems Licensing Board for a term to begin on October 1, 1983, and to expire on September 30, 1986.

Sec. 36. Unless otherwise specified, all appointments made by this act are for terms to begin on July 1, 1983.

Sec. 37. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 416 CHAPTER 887

AN ACT TO REMOVE THE SALES TAX ON DEATH CERTIFICATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13(18) is hereby amended by deleting the period following the word "deceased" in the first line of page 182, 1981 Supplement to Volume 2D, 1979 Replacement, General Statutes of North Carolina, and by adding the following:

"; and 'funeral expenses' and 'services rendered' shall not include death certificates procured by or at the specific direction of the family or personal representative of a deceased."

Sec. 2. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 569 CHAPTER 888

AN ACT TO PROVIDE THAT THE RIGHT TO FILE OR CLAIM CERTAIN STATUTORY LIENS ON REAL PROPERTY MAY NOT BE WAIVED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44A-12 is hereby amended by adding a new subsection "f" to read as follows:

"(f) *Waiver of right to file or claim liens as consideration for contract against public policy.*—An agreement to waive the right to file or claim a lien granted under this Article, which agreement is in anticipation of and in consideration for the awarding of any contract, either expressed or implied, for the making of an improvement upon real property under this Article is against public policy and is unenforceable. This section does not prohibit subordination or release of a lien granted under this Article."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 633 CHAPTER 889

AN ACT TO MODIFY THE JUVENILE ADMISSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-56.7(a) is rewritten to read:

"(a) When, pursuant to G.S. 122-56.5, a minor or person adjudicated non compos mentis is admitted to any treatment facility wherein the person will be subjected to the restrictions on his freedom of movement present in the State regional mental hospitals and treatment facilities described in G.S. 122-7, G.S. 122-58.21 and G.S. 122-98.2, or to restrictions similar thereto, a hearing shall be held in the District Court in the county in which the treatment facility is located within 10 days of the day that the minor or the person adjudicated non compos mentis is admitted to the treatment facility. The Commission for Mental Health, Mental Retardation and Substance Abuse Services shall promulgate rules and regulations governing procedures for admissions to other treatment facilities as defined by G.S. 122-56.2(b) not falling within the categories of those described in the preceding sentence; these rules and

regulations will be designed to insure that no minor is improperly admitted to or remains in such treatment facilities."

Sec. 2. G.S. 122-56.7(b) is amended by adding the following as the first sentence of that subsection:

"In any case requiring the hearing described in subsection (a) of this section, no petition shall be necessary; the written application for voluntary admission shall serve as the initiating document for the hearing."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 685 CHAPTER 890

AN ACT CONCERNING THE TRANSPORTATION OF FARM PRODUCTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-399(b) is amended by adding the following sentence at the end:

"This presumption, however, does not apply to a vehicle transporting agricultural products or supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural product or supply."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

S. B. 141 CHAPTER 891

AN ACT TO REWRITE THE PUBLIC HEALTH LAWS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130 of the General Statutes is repealed, except for G.S. 130-3(a), 130-9(e), 130-9.5, 130-9.7, 130-166.21D, 130-170.1, 130-170.2, 130-187, 130-203 through 130-205, 130-230, 130-232 through 130-235, and 130-264 through 130-277.

Sec. 2. A new Chapter 130A is added to the General Statutes to read as follows:

"CHAPTER 130A.

"Public Health.

"ARTICLE 1.

"Definitions, General Provisions and Remedies.

"Part 1. General Provisions.

"§ 130A-1. *Title.*—This Chapter shall be known as the Public Health Law of North Carolina.

"§ 130A-2. *Definitions.*—The following definitions shall apply throughout this Chapter unless otherwise specified:

(1) 'Commission' means the Commission for Health Services.

(2) 'Department' means the Department of Human Resources.

(3) 'Imminent hazard' means a situation which is likely to cause an immediate threat to life or a serious risk of irreparable damage to the environment if no immediate action is taken.

(4) 'Local board of health' means a district board of health or a county board of health.

(5) 'Local health department' means a district health department or a county health department.

(6) 'Local health director' means the administrative head of a local health department appointed pursuant to this Chapter.

(7) 'Person' means an individual, corporation, company, association, partnership, unit of local government or other legal entity.

(8) 'Secretary' means the Secretary of the Department of Human Resources.

(9) 'Unit of local government' means a county, city, consolidated city-county, sanitary district or other local political subdivision, authority or agency of local government.

(10) 'Vital records' means birth, death, fetal death, marriage, annulment and divorce records registered under the provisions of Article 4 of this Chapter.

"§ 130A-3. *Appointment of the State Health Director.*—The Secretary shall appoint the State Health Director. The State Health Director shall be a physician licensed to practice medicine in this State. The State Health Director shall perform duties and exercise authority assigned by the Secretary.

"§ 130A-4. *Administration.*—(a) The Secretary shall have the authority and responsibility to administer and enforce the provisions of this Chapter and the rules of the Commission. A local health director shall have the authority and responsibility to administer the programs of the local health department and to enforce the rules of the local board of health.

(b) When requested by the Secretary, a local health department shall enforce the rules of the Commission under the supervision of the Department. The local health department shall utilize local staff authorized by the Department to enforce the specific rules. However, the preceding sentence is inapplicable to the exercise of enforcement and permit authority under G.S. 130A-277.

"§ 130A-5. *Duties of the Secretary.*—The Secretary shall have the authority:

(1) To enforce the State health laws and the rules of the Commission;

(2) To investigate the causes of epidemics and of infectious, communicable and other diseases affecting the public health in order to control and prevent these diseases; to provide, under the rules of the Commission, for the prevention, detection, reporting and control of communicable, infectious or any other diseases or health hazards considered harmful to the public health;

(3) To develop and carry out reasonable health programs that may be necessary for the protection and promotion of the public health and the control of diseases. The Commission is authorized to adopt rules to carry out these programs;

(4) To make sanitary and health investigations and inspections;

(5) To investigate occupational health hazards and occupational diseases and to make recommendations for the elimination of the hazards and diseases. The Secretary shall work with the Industrial Commission and shall file sufficient reports with the Industrial Commission to enable it to carry out all of the provisions of the Workers' Compensation Act with respect to occupational disease.

(6) To receive donations of money, securities, equipment, supplies, realty or any other property of any kind or description which shall be used by the Department for the purpose of carrying out its public health programs;

(7) To acquire by purchase, devise or otherwise in the name of the Department equipment, supplies and other property, real or personal, necessary to carry out the public health programs;

(8) To use the official seal of the Department. Copies of documents in the possession of the Department may be authenticated with the seal of the Department, attested by the signature or a facsimile of the signature of the Secretary, and when authenticated shall have the same evidentiary value as the originals;

(9) To disseminate information to the general public on all matters pertaining to public health; to purchase, print, publish, and distribute free, or at cost, documents, reports, bulletins and health informational materials. Money collected from the distribution of these materials shall remain in the Department to be used to replace the materials;

(10) To be the health advisor of the State and to advise State officials in regard to the location, sanitary construction and health management of all State institutions; to direct the attention of the State to health matters which affect the industries, property, health and lives of the people of the State; to inspect at least annually State institutions and facilities; to make a report as to the health conditions of these institutions or facilities with suggestions and recommendations to the appropriate State agencies. It shall be the duty of the persons in immediate charge of these institutions or facilities to furnish all assistance necessary for a thorough inspection;

(11) To establish a schedule of fees based on income to be paid by a recipient for services provided by Migrant Health Clinics and Developmental Evaluation Centers;

(12) To establish fees for the sale of specimen containers, vaccines and other biologicals. The fees shall not exceed the actual cost of such items, plus transportation costs; and

(13) To establish a fee to cover costs of responding to requests by employers for industrial hygiene consultation services and occupational consultation services. The fee shall not exceed two hundred dollars ($200.00) per on site inspection.

"§ 130A-6. *Delegation of authority.*—Whenever authority is granted by this Chapter upon a public official, the authority may be delegated to another person authorized by the public official.

"§ 130A-7. *Grants-in-aid.*—The State is authorized to accept, allocate and expend any grants-in-aid for public health purposes which may be made available to the State by the federal government. This Chapter is to be liberally construed in order that the State and its citizens may benefit fully from these grants-in-aid. The Commission is authorized to adopt rules, not inconsistent with the laws of this State, as required by the federal government for receipt of federal funds. Any federal funds received are to be deposited with the State Treasurer and are to be appropriated by the General Assembly for the public health purposes specified.

"§ 130A-8. *Counties to recover indirect costs on certain federal public health or mental health grants.*—(a) The Department shall include in its request for federal funds applicable to public health or mental health grants from the federal government to the State or any of its agencies, indirect costs incurred by counties acting as subgrantees under the grants or otherwise providing services to the Department with regard to the grants to the full extent permitted by OMB Circular A-87 or its successor. The Department shall allow counties to claim and recover their indirect costs on these grants to the full extent permitted by the Circular.

(b) This section shall not apply to those federal public health or mental health grants which are formula grants to the State or which are otherwise limited as to the maximum amounts receivable on a statewide basis.

"§ 130A-9. *Standards.*—The Commission is authorized to establish reasonable standards governing the nature and scope of public health services rendered by local health departments.

"§ 130A-10. *Advisory Committees.*—The Secretary is authorized to establish and appoint as many special advisory committees as may be necessary to advise and confer with the Department concerning the public health. Members of any special advisory committee shall serve without compensation but may be allowed travel and subsistence expenses in accordance with G.S. 138-6.

"§ 130A-11. *Residencies in public health.*—The Department shall establish a residency program designed to attract physicians and dentists into the field of public health and to train them in the specialty of public health practice. The program shall include practical experience in public health principles and practices.

"§ 130A-12 to 130A-16: Reserved for future codification purposes.

"Part 2. Remedies.

"§ 130A-17. *Right of Entry.*—The Secretary and a local health director shall have the right of entry upon the premises of any place where entry is necessary to carry out the provisions of this Chapter or the rules adopted by the Commission or a local board of health. If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to G.S. 15-27.2. However, if an imminent hazard exists, no warrant is required for entry upon the premises.

"§ 130A-18. *Injunction.*—If a person shall violate any provision of this Chapter or the rules adopted by the Commission or rules adopted by a local board of health, the Secretary or a local health director may institute an action for injunctive relief, irrespective of all other remedies at law, in the superior court of the county where the violation occurred or where a defendant resides.

"§ 130A-19. *Abatement of public health nuisance.*—If the Secretary or a local health director determines that a public health nuisance exists, the Secretary or a local health director may issue an order of abatement directing the owner, lessee, operator or other person in control of the property to take any action necessary to abate the public health nuisance. If the person refuses to comply with the order, the Secretary or the local health director may institute an action in the superior court of the county where the public health nuisance exists to enforce the order. The action shall be calendared for trial within 60 days after service of the complaint upon the defendant. The court may order the owner to abate the nuisance or direct the Secretary or the local health director to abate the nuisance. If the Secretary or the local health director is ordered to abate the nuisance, the Department or the local health department shall have a lien on the property for the cost of the abatement of the nuisance in the nature of a mechanic's and materialmen's lien as provided in Chapter 44A of the General Statutes and the lien may be enforced as provided therein.

"§ 130A-20. *Abatement of an imminent hazard.*—If the Secretary or a local health director determines that an imminent hazard exists, the Secretary or a local health director may, after notice to or reasonable attempt to notify the owner, enter upon any property and take any action necessary to abate the imminent hazard. The Department or the local health department shall have a

lien on the property for the cost of the abatement of the imminent hazard in the nature of a mechanic's and materialmen's lien as provided in Chapter 44A and the lien may be enforced as provided therein. The lien may be defeated by a showing that an imminent hazard did not exist at the time the Secretary or the local health director took the action.

"§ 130A-21. *Embargo.*—(a) The Secretary and a local health director has authority to exercise embargo authority concerning food or drink pursuant to G.S. 106-125(a), (b) and (c) when delegated the authority by the Commissioner of Agriculture.

(b) If the Secretary or a local health director has probable cause to believe that any milk designated as Grade 'A' milk is misbranded or does not satisfy the milk sanitation rules adopted pursuant to G.S. 130A-275, the Secretary or a local health director may detain or embargo the milk by affixing a tag to it and warning all persons not to remove or dispose of the milk until permission for removal or disposal is given by the official by whom the milk was detained or embargoed or by the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed milk without that permission.

The official by whom the milk was detained or embargoed shall petition a judge of the district or superior court in whose jurisdiction the milk is detained or embargoed for an order for condemnation of the article. If the court finds that the milk is misbranded or that it does not satisfy the milk sanitation rules adopted pursuant to G.S. 130A-275, either the milk shall be destroyed under the supervision of the petitioner or the petitioner shall ensure that the milk will not be used for human consumption as Grade 'A' milk. All court costs and fees, storage, expenses of carrying out the court's order and other expense shall be taxed against the claimant of the milk. If, the milk, by proper labelling or processing, can be properly branded and will satisfy the milk sanitation rules adopted pursuant to G.S. 130A-275, the court, after the payment of all costs, fees, and expenses and after the claimant posts an adequate bond, may order that the milk be delivered to the claimant for proper labelling and processing under the supervision of the petitioner. The bond shall be returned to the claimant after the petitioner represents to the court either that the milk is no longer mislabelled or in violation of the milk sanitation rules adopted pursuant to G.S. 130A-275, or that the milk will not be used for human consumption, and that in either case the expenses of supervision have been paid.

(c) If the Secretary or a local health director has probable cause to believe that any scallops, shellfish or crustacea is adulterated or misbranded, the Secretary or a local health director may detain or embargo the article by affixing a tag to it and warning all persons not to remove or dispose of the article until permission for removal or disposal is given by the official by whom it was detained or embargoed or by the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed article without that permission.

The official by whom the scallops, shellfish or crustacea was detained or embargoed shall petition a judge of the district or superior court in whose jurisdiction the article is detained or embargoed for an order for condemnation of the article. If the court finds that the article is adulterated or misbranded, that article shall be destroyed under the supervision of the petitioner. All court costs and fees, storage and other expense shall be taxed against the claimant of the article. If, the article, by proper labelling can be properly branded, the court,

after the payment of all costs, fees, expenses, and an adequate bond, may order that the article be delivered to the claimant for proper labelling under the supervision of the petitioner. The bond shall be returned to the claimant after the petitioner represents to the court that the article is no longer mislabelled and that the expenses of supervision have been paid.

(d) Nothing in this section is intended to limit the embargo authority of the Department of Agriculture. The Department of Human Resources and the Department of Agriculture are authorized to enter agreements respecting the duties and responsibilities of each agency in the exercise of their embargo authority.

(e) For the purpose of this section, a food or drink is adulterated if the food or drink is deemed adulterated under G.S. 106-129; and food or drink is misbranded if it is deemed misbranded under G.S. 106-130.

"§ 130A-22. *Administrative penalties.*—(a) The Secretary may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed five hundred dollars ($500.00) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed ten thousand dollars ($10,000) per day in the case of a violation involving hazardous waste.

(b) The Secretary may impose an administrative penalty on a person who violates G.S. 130A-325. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed five thousand dollars ($5,000) for each day the violation continues.

(c) The Secretary may impose an administrative penalty on a person who willfully violates Article 11 of this Chapter, rules adopted by the Commission pursuant to Article 11 or any condition imposed upon a permit issued under Article 11. An administrative penalty may not be imposed upon a person who establishes that neither the site nor the system may be improved or a new system installed so as to comply with Article 11 of this Chapter. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifty dollars ($50.00) per day in the case of a sewage collection, treatment and disposal system with a design daily flow of no more than 480 gallons or in the case of any system serving a single one-family dwelling. The penalty shall not exceed three hundred dollars ($300.00) per day in the case of a sewage collection, treatment and disposal system with a design daily flow of more than 480 gallons which does not serve a single one-family dwelling.

(d) In determining the amount of the penalty in subsections (a), (b) and (c), the Secretary shall consider the degree and extent of the harm caused by the violation and the cost of rectifying the damage.

(e) A person contesting a penalty shall be entitled to an administrative hearing and judicial review in accordance with Chapter 150A of the General Statutes, the Administrative Procedure Act.

(f) The Commission shall adopt rules concerning the imposition of administrative penalties under this section.

(g) The Secretary may bring a civil action in the superior court of the county where the violation occurred or where the defendant resides to recover the amount of the administrative penalty whenever a person:

(1) who has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of the penalty; or

(2) who has requested an administrative hearing fails to pay the penalty within 60 days after service of a written copy of the decision as provided in G.S. 150A-36 of the Administrative Procedure Act.

(h) A local health director may impose an administrative penalty on any person who willfully violates the sewage collection, treatment, and disposal rules of the local board of health adopted pursuant to G.S. 130A-335(c) or who willfully violates a condition imposed upon a permit issued under the approved local rules. An administrative penalty may not be imposed upon a person who establishes that neither the site nor the system may be improved or a new system installed so as to comply with Article 11 of this Chapter. The local health director shall establish and recover the amount of the administrative penalty in accordance with subsections (d) and (g). Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifty dollars ($50.00) per day in the case of a sewage collection, treatment and disposal system with a design daily flow of no more than 480 gallons or in the case of any system serving a single one-family dwelling. The penalty shall not exceed three hundred dollars ($300.00) per day in the case of a sewage collection, treatment and disposal system with a design daily flow of more than 480 gallons which does not serve a single one-family dwelling. A person contesting a penalty imposed under this subsection shall be entitled to an administrative hearing and judicial review in accordance with G.S. 130A-24. A local board of health shall adopt rules concerning the imposition of administrative penalties under this subsection.

"§ 130A-23. *Suspension and revocation of permits and program participation.*—(a) The Secretary may suspend or revoke a permit issued under this Chapter upon a finding that a violation of the applicable provisions of this Chapter, the rules of the Commission or a condition imposed upon the permit has occurred. A permit may also be suspended or revoked upon a finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue the permit.

(b) The Secretary may suspend or revoke a person's participation in a program administered under this Chapter upon a finding that a violation of the applicable provisions of this Chapter or the rules of the Commission has occurred. Program participation may also be suspended or revoked upon a finding that participation was based upon incorrect or inadequate information that materially affected the decision to grant program participation.

(c) A person shall be given notice that there has been a tentative decision to suspend or revoke the permit or program participation and that an administrative hearing will be held in accordance with Chapter 150A of the General Statutes, the Administrative Procedure Act, at which time the person may challenge the tentative decision.

(d) If a violation of the Chapter or the rules presents an imminent hazard, a permit may be suspended or revoked immediately. The Secretary shall immediately give notice of the revocation and notice that an administrative hearing will be held in accordance with Chapter 150A of the General Statutes, the Administrative Procedure Act, at which time the person may challenge the decision.

"§ 130A-24. *Appeals procedure.*—(a) Appeals concerning the interpretation and enforcement of rules adopted by the Commission, concerning the suspension and revocation of permits and program participation by the Secretary and concerning the imposition of administrative penalties by the Secretary shall be governed by Chapter 150A of the General Statutes, the Administrative Procedure Act, except that judicial review of the imposition of administrative penalties shall be *de novo* by the superior court without a jury.

(b) Appeals concerning the interpretation and enforcement of rules adopted by the local board of health and concerning the imposition of administrative penalties by a local health director shall be conducted in accordance with subsections (b), (c) and (d) of this section. The aggrieved person shall give written notice of appeal to the local health director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect. Upon filing of the notice, the local health director shall, within five working days, transmit to the local board of health the notice of appeal and the papers and materials upon which the challenged action was taken.

(c) The local board of health shall hold a hearing within 15 days of the receipt of the notice of appeal. The board shall give the person not less than 10 days' notice of the date, time and place of the hearing. On appeal, the board shall have authority to affirm, modify or reverse the challenged action. The local board of health shall issue a written decision based on the evidence presented at the hearing. The decision shall contain a concise statement of the reasons for the decision.

(d) A person who wishes to contest a decision of the local board of health under subsection (b) of this section shall have a right of appeal to the district court having jurisdiction within 30 days after the date of the decision by the board. The district court may affirm, modify or reverse the decision of the board for the reasons stated in G.S. 150A-51. Judicial review of the imposition of administrative penalties shall be *de novo* by the district court without a jury.

"§ 130A-25. *Misdemeanor.*—(a) A person who violates a provision of this Chapter or the rules adopted by the Commission or a local board of health shall be guilty of a misdemeanor.

(b) A person imprisoned for failure to obtain the treatment required by Part 3 or Part 5 of Article 6 of this Chapter may be discharged by the Secretary of the Department of Corrections if the medical consultant of the confinement facility and the local health director of the person's county of residence determine that the discharge does not represent a danger to the public health.

"§ 130A-26. *Violations of Article 4.*—A person who commits any of the following acts shall be guilty of a general misdemeanor:

(1) Willfully and knowingly makes any false statement in a certificate, record or report required by Article 4 of this Chapter or in an application for a certified copy of a vital record, or who willfully and knowingly supplies false information intending that the information be used in the preparation of any report, record, or certificate, or amendment;

(2) Without lawful authority and with the intent to deceive makes, counterfeits, alters, amends or mutilates a certificate, record or report

required by Article 4 of this Chapter or a certified copy of the certificate, record or report;

(3) Willfully and knowingly obtains, possesses, uses, sells or furnishes to another person, for any purpose of deception, a certificate, record or report required by Article 4 of this Chapter or a certified copy of the certificate, record or report, which is counterfeited, altered, amended or mutilated, or which is false in whole or in part or which relates to the birth of another person, whether living or deceased;

(4) A person employed by the Vital Records Branch or designated under Article 4 of this Chapter who willfully and knowingly furnishes or processes a certificate of birth, or certified copy of a certificate of birth, with the knowledge or intention that it be used for the purposes of deception; or

(5) Without lawful authority possesses a certificate, record or report required by Article 4 of this Chapter or a certified copy of the certificate, record or report knowing that it was stolen or otherwise unlawfully obtained.

(6) Remove or permit the removal of a dead body of a human being without authorization provided in Article 4 of this Chapter;

(7) Refuse or fail to furnish correctly any information in the person's possession or shall furnish false information affecting a certificate or record required by Article 4 of this Chapter;

(8) Willfully alter, except as provided by G.S. 130A-123, or falsify a certificate or record required by Article 4 of this Chapter; or willfully alter, falsify or change a photocopy, certified copy, extract copy or any document containing information obtained from an original or copy of a certificate or record required by Article 4 of this Chapter or willfully make, create or use any altered, falsified or changed record, reproduction, copy or document for the purpose of attempting to prove or establish for any purpose whatsoever any matter purported to be shown on it;

(9) With the intention to deceive, willfully use or attempt to use a certificate of birth or certified copy of a record of birth knowing that the certificate or certified copy was issued upon a record which is false in whole or in part or which relates to the birth of another person;

(10) Willfully and knowingly furnish a certificate of birth or certified copy of a record of birth with the intention that it be used by an unauthorized person or for an unauthorized purpose; or

(11) Fail, neglect or refuse to perform any act or duty required by Artilce 4 of this Chapter or by the instructions of the State Registrar prepared under authority of the Article.

"§ 130A-27. *Recovery of money.*—The Secretary may institute an action in the county where the action arose or the county where the defendant resides to recover any money, other property or interest in property or the monetary value of goods or services provided or paid for by the Department which are wrongfully paid or transferred to a person under a program administered by the Department pursuant to this Chapter.

"§ 130A-28. *Forfeiture of gain.*—In the case of a violation of this Chapter or the rules adopted by the Commission, money or other property or interest in property so acquired shall be forfeited to the State unless ownership by an

innocent person may be established. An action may be instituted by the Attorney General or a district attorney pursuant to G.S. 1-532.

"§ 130A-29 to 130A-33: Reserved for future codification purposes.

"ARTICLE 2.

"Local Administration.

"Part 1. Local Health Departments.

"§ 130A-34. *Provision of local public health services.*—(a) A county shall provide public health services.

(b) A county shall operate a county health department, participate in a district health department or contract with the State for the provision of public health services.

"§ 130A-35. *County board of health; appointment; terms.*—(a) A county board of health shall be the policy-making, rule-making and adjudicatory body for a county health department.

(b) The members of a county board of health shall be appointed by the county board of commissioners. The board shall be composed of 11 members. The composition of the board shall reasonably reflect the population makeup of the county and shall include: one physician licensed to practice medicine in this State, one licensed dentist, one licensed optometrist, one licensed veterinarian, one registered nurse, one licensed pharmacist, one county commissioner and four representatives of the general public. All members shall be residents of the county. If there is not a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse or a licensed pharmacist available for appointment, an additional representative of the general public shall be appointed. If however, one of the six designated professions has only one person residing in the county, the county commissioners shall have the option of appointing that person or a member of the general public.

(c) Except as provided in this subsection, members of a county board of health shall serve three-year terms. No member may serve more than three consecutive three-year terms. The county commissioner member shall serve only as long as the member is a county commissioner. When a representative of the general public is appointed due to the unavailability of a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse or a licensed pharmacist, that member shall serve only until a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse or a licensed pharmacist becomes available for appointment. In order to establish a uniform staggered term structure for the board, a member may be appointed for less than a three-year term.

(d) Vacancies shall be filled for any unexpired portion of a term.

(e) A chairperson shall be elected annually by a county board of health. The local health director shall serve as secretary to the board.

(f) A majority of the members shall constitute a quorum.

(g) A member may be removed from office by the county board of commissioners for cause.

(h) A member may receive a per diem and reimbursement for subsistence and travel in an amount established by the county board of commissioners, not to exceed the amount established in G.S. 138-5.

(i) The board shall meet at least quarterly. The chairperson or three of the members may call a special meeting.

"§ 130A-36. *Creation of district health department.*—(a) A district health department including more than one county may be formed in lieu of county health departments upon agreement of the county boards of commissioners and local boards of health having jurisdiction over each of the counties involved. A county may join a district health department upon agreement of the boards of commissioners and local boards of health having jurisdiction over each of the counties involved. A district health department shall be a public authority as defined in G.S. 159-7(b)(10).

(b) Upon creation of or addition to a district health department, the existing rules of the former board or boards of health shall continue in effect until amended or repealed by the district board of health.

"§ 130A-37. *District board of health.*—(a) A district board of health shall be the policy-making, rule-making and adjudicatory body for a district health department and shall be composed of 15 members.

(b) The county board of commissioners of each county in the district shall appoint one county commissioner to the district board of health. The county commissioner members of the district board of health shall appoint the other members of the board, including at least one physician licensed to practice medicine in this State, one licensed dentist, one licensed optometrist, one licensed veterinarian, one registered nurse and one licensed pharmacist. The composition of the board shall reasonably reflect the population makeup of the entire district and provide equitable district-wide representation. All members shall be residents of the district. If there is not a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse or a licensed pharmacist available for appointment, an additional representative of the general public shall be appointed. If however, one of the six designated professions has only one person residing in the district, the county commissioner members shall have the option of appointing that person or a member of the general public.

(c) Except as provided in this subsection, members of a district board of health shall serve terms of three years. Two of the original members shall serve terms of one year and two of the original members shall serve terms of two years. No member shall serve more than three consecutive three-year terms. County commissioner members shall serve only as long as the member is a county commissioner. When a representative of the general public is appointed due to the unavailability of a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse or a licensed pharmacist, that member shall serve only until a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse or a licensed pharmacist becomes available for appointment. The county commissioner members may appoint a member for less than a three-year term to achieve a staggered term structure.

(d) Whenever a county shall join or withdraw from an existing district health department, the district board of health shall be dissolved and a new board shall be appointed as provided in subsection (c).

(e) Vacancies shall be filled for any unexpired portion of a term.

(f) A chairperson shall be elected annually by a district board of health. The local health director shall serve as secretary to the board.

(g) A majority of the members shall constitute a quorum.

(h) A member may be removed from office by the district board of health for cause.

(i) A member may receive a per diem and reimbursement for subsistence and travel in an amount established by the county board of commissioners, not to exceed the amount established in G.S. 138-5.

(j) The board shall meet at least quarterly. The chairperson or three of the members may call a special meeting.

(k) A district board of health is authorized to provide liability insurance for the members of the board and the employees of the district health department. A district board of health is also authorized to contract for the services of an attorney to represent the board, the district health department and its employees, as appropriate. The purchase of liability insurance pursuant to this subsection waives both the district board of health's and the district health department's governmental immunity, to the extent of insurance coverage, for any act or omission occuring in the exercise of a governmental function. By entering into a liability insurance contract with the district board of health, an insurer waives any defense based upon the governmental immunity of the district board of health or the district health department.

"§ 130A-38. *Dissolution of a district health department.*—(a) Whenever the board of commissioners of each county constituting a district health department determines that the district health department is not operating in the best health interests of the respective counties, they may direct that the district health department be dissolved. In addition, whenever a board of commissioners of a county which is a member of a district health department determines that the district health department is not operating in the best health interests of that county, it may withdraw from the district health department. Dissolution of a district health department or withdrawal from the district health department by a county shall be effective only at the end of the fiscal year in which the action of dissolution or withdrawal transpired.

(b) Notwithstanding the provisions of subsection (a), no district health department shall be dissolved without prior written notification to the Department.

(c) Any budgetary surplus available to a district health department at the time of its dissolution shall be distributed to those counties comprising the district on the same pro rata basis that the counties appropriated and contributed funds to the district health department budget during the current fiscal year. Distribution to the counties shall be determined on the basis of an audit of the financial record of the district health department. The district board of health shall select a certified public accountant or an accountant who is subsequently certified by the Local Government Commission to conduct the audit. The audit shall be performed in accordance with G.S. 159-34. The same method of distribution of funds described above shall apply when one or more counties of a district health department withdraw from a district.

(d) Upon dissolution or withdrawal, all rules adopted by a district board of health shall continue in effect until amended or repealed by the new board or boards of health.

"§ 130A-39. *Powers and duties of a local board of health.*—(a) A local board of health shall have the responsibility to protect and promote the public health. The board shall have the authority to adopt rules necessary for that purpose.

(b) A local board of health may adopt a more stringent rule in an area regulated by the Commission for Health Services or the Environmental Management Commission where, in the opinion of the local board of health, a more stringent rule is required to protect the public health; otherwise, the rules of the Commission for Health Services or the rules of the Environmental Management Commission shall prevail over local board of health rules. However, a local board of health may not adopt a rule concerning the grading and permitting of food and lodging facilities as listed in Part 6 of Article 8 of this Chapter and a local board of health may adopt rules concerning sanitary sewage collection, treatment and disposal systems which are not designed to discharge effluent to the land surface or surface waters and which are not public or community systems only in accordance with G.S. 130A-335(c).

(c) The rules of a local board of health shall apply to all municipalities within the local board's jurisdiction.

(d) Not less than 10 days before the adoption, amendment or repeal of any local board of health rule, the proposed rule shall be made available at the office of each county clerk within the board's jurisdiction, and a notice shall be published in a newspaper having general circulation within the area of the board's jurisdiction. The notice shall contain a statement of the substance of the proposed rule or a description of the subjects and issues involved, the proposed effective date of the rule and a statement that copies of the proposed rule are available at the local health department. A local board of health rule shall become effective upon adoption unless a later effective date is specified in the rule.

(e) Copies of all rules shall be filed with the secretary of the local board of health.

(f) A local board of health may, in its rules, adopt by reference any code, standard, rule or regulation which has been adopted by any agency of this State, another state, any agency of the United States or by a generally recognized association. Copies of any material adopted by reference shall be filed with the rules.

(g) A local board of health may contract with any person, including any governmental agency, for the provision or receipt of public health services. A local board of health may impose a fee for services to be rendered by a local health department, except where the imposition of a fee is prohibited by statute or where an employee of the local health department is performing the services as an agent of the State. Notwithstanding any other provisions of law, a local board of health may impose a fee for services performed pursuant to Article 11 of this Chapter, 'Sanitary Sewage Systems'. Fees shall be based upon a plan recommended by the local health director and approved by the local board of health and the appropriate county board or boards of commissioners. The fees collected under the authority of this subsection are to be deposited to the account of the local health department so that they may be expended for public health purposes in accordance with the provisions of the County Fiscal Control Act.

"§ 130A-40. *Appointment of local health director.*—A local board of health, after consulting with the appropriate county board or boards of commissioners, shall appoint a local health director. A local health director shall possess the qualifications established for the position by the Commission for Health Services under G.S. 143B-142(a) and qualifications established for the position

by the State Personnel Commission in accordance with Chapter 126 of the General Statutes. However, a local health director shall not be required to be a physician. When a local board of health fails to appoint a local health director within 60 days of the creation of a vacancy, the State Health Director may appoint a local health director to serve until the local board of health appoints a local health director in accordance with this section.

"§ 130A-41. *Powers and duties of local health director.*—(a) A local health director shall be the administrative head of the local health department, shall perform public health duties prescribed by and under the supervision of the local board of health and the Department and shall be employed full time in the field of public health.

(b) A local health director shall have the following powers and duties:

(1) To administer programs as directed by the local board of health;

(2) To enforce the rules of the local board of health;

(3) To investigate the causes of infectious, communicable and other diseases;

(4) To exercise quarantine authority and isolation authority pursuant to G.S. 130A-145;

(5) To disseminate public health information and to promote the benefits of good health;

(6) To advise local officials concerning public health matters;

(7) To enforce the immunization requirements of Part 2 of Article 7 of this Chapter;

(8) To examine and investigate cases of venereal disease pursuant to Parts 3 and 4 of Article 6 of this Chapter;

(9) To examine and investigate cases of tuberculosis pursuant to Part 5 of Article 6 of this Chapter;

(10) To examine, investigate and control rabies pursuant to Part 6 of Article 6 of this Chapter;

(11) To abate public health nuisances and imminent hazards pursuant to G.S. 130A-19 and G.S. 130A-20; and

(12) To employ and dismiss employees of the local health department in accordance with Chapter 126 of the General Statutes.

(c) Authority conferred upon a local health director may be exercised only within the county or counties comprising the local health department.

"§ 130A-42. *Personnel records of district health departments.*—Employee personnel records of a district health department shall have the same protections from disclosure as county employee personnel records under G.S. 153A-98. For the purposes of this section, the local health director shall perform the duties assigned to the county manager pursuant to G.S. 153A-98 and the district board of health shall perform the duties assigned to the county board of commissioners pursuant to G.S. 153A-98.

"§ 130A-43 to 130A-46: Reserved for future codification purposes.

"Part 2. Sanitary Districts.

"§ 130A-47. *Creation by Commission.*—For the purpose of preserving and promoting the public health and welfare, the Commission may create sanitary districts without regard for county, township or municipal lines. However, no municipal corporation or any part of the territory in a municipal corporation shall be included in a sanitary district except at the request of the governing board of the municipal corporation. If the municipal corporation has not levied

any tax nor performed any official act nor held any elections within a period of four years preceding the date of the petition for the sanitary district, a request of the governing board shall not be required.

"§ 130A-48. *Procedure for incorporating district.*—A sanitary district shall be incorporated as follows. Either fifty-one percent (51%) or more of the resident freeholders within a proposed sanitary district or fifty-one percent (51%) or more of the freeholders within a proposed sanitary district, whether or not the freeholders are residents of the proposed sanitary district, may petition the county board of commissioners of the county in which all or the largest portion of the land of the proposed district is located. This petition shall set forth the boundaries of the proposed sanitary district and the objectives of the proposed district. For the purposes of this Part, the term 'freeholder' shall mean a person holding a deed to a tract of land within the district or proposed district, and also shall mean a person who has entered into a contract to purchase a tract of land within the district or proposed district, is making payments pursuant to a contract and will receive a deed upon completion of the contractual payments. The contracting purchaser, rather than the contracting seller, shall be deemed to be the freeholder. Upon receipt of the petition, the county board of commissioners, through its chairperson, shall notify the Department and the chairperson of the county board of commissioners of any other county or counties in which any portion of the proposed district lies of the receipt of the petition. The chairperson shall request that the Department hold a joint public hearing with the county commissioners of all the counties in which a portion of the district lies concerning the creation of the proposed sanitary district. The Secretary and the chairperson of the county board of commissioners shall name a time and place within the proposed district to hold the public hearing. The chairperson of the county board of commissioners shall give prior notice of the hearing by posting a notice at the courthouse door of the county and also by publication at least once a week for four successive weeks in a newspaper published in the county. In the event the hearing is to be before a joint meeting of the county boards of commissioners of more than one county, or in the event the land to be affected lies in more than one county, publication and notice shall be made in each of the affected counties. In the event that all matters pertaining to the creation of this sanitary district cannot be concluded at the hearing, the hearing may be continued at a time and place within the proposed district named by the Department.

"§ 130A-49. *Declaration that district exists; status of industrial villages within boundaries of district.*—(a) If, after the required public hearing, the Commission and the county commissioners determine that a district shall be created for the purposes stated in the petition, the Commission shall adopt a resolution defining the boundaries of the district and declaring the territory within the boundaries to be a sanitary district. The Commission may make minor deviation in defining the boundaries from those prescribed in the petition when it determines the change to be in the interest of the public health.

(b) The owner or controller of an industrial plant may make application requesting that the plant or the plant and its contiguous village be included within or excluded from the sanitary district. The application shall be filed with the Commission on or before the date of the public hearing. If an

application is properly filed, the Commission shall include or exclude the industrial plant and contiguous village in accordance with the application.

(c) Each district when created shall be identified by a name or number assigned by the Commission.

"§ 130A-50. *Election and terms of office of sanitary district boards.*—(a) The Department shall send a copy of the resolution creating the sanitary district to the county board or boards of county commissioners of the county or counties in which all or part of the district is located. The board or boards of commissioners shall hold a meeting or joint meeting for the purpose of electing the members of the sanitary district board.

(b) The sanitary district board shall be composed of either three or five members as the county commissioners in their discretion shall determine. The members first appointed shall serve as the governing body of the sanitary district until the next regular election for municipal and special district officers as provided in G.S. 163-279, which occurs more than 90 days after their appointment. At that election, their successors shall be elected. The terms of the members shall be for two years or four years and may be staggered as determined by the county board of commissioners so that some members are elected at each biennial election. The members of the sanitary district board shall be residents of the district. The county board of commissioners shall notify the county board of elections of any decision made under this subsection.

(c) The election shall be nonpartisan and decided by simple plurality as provided in G.S. 163-292 and shall be held and conducted by the county board of elections in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes. If the district is in more than one county, then the county board of elections of the county including the largest part of the district shall conduct the election for the entire district with the assistance and full cooperation of the boards of elections in the other counties.

(d) The board of elections shall certify the results of the election to the clerk of superior court. The clerk of superior court shall take and file the oaths of office of the board members elected.

(e) The elected members of the board shall take the oath of office on the first Monday in December following their election and shall serve for the term elected and until their successors are elected and qualified.

"§ 130A-51. *City governing body acting as sanitary district board.*—(a) When the General Assembly incorporates a city or town that includes within its territory fifty percent (50%) or more of the territory of a sanitary district, the governing body of the city or town shall become ex officio the governing board of the sanitary district if the General Assembly provides for this action in the incorporation act and if the existing sanitary district board adopts a final resolution pursuant to this section. The resolution may be adopted at any time within the period beginning on the day of ratification of the incorportion act and ending 270 days after the effective date.

(b) To begin the process leading to the city or town board becoming ex officio the sanitary district board, the board of the sanitary district shall first adopt a preliminary resolution finding that the interests of the citizens of the sanitary district and of the city or town will be best served if both units of local government are governed by a single governing body. This resolution shall also set the time and place for a public hearing on the preliminary resolution.

(c) Upon adoption of this preliminary resolution, the chairperson of the sanitary district board shall publish a notice of the public hearing once at least 10 days before the hearing in a newspaper of general circulation within the sanitary district. This notice shall set forth the time and place of the hearing and shall briefly describe its purpose. At the hearing, the board shall hear any citizen of the sanitary district or of the city or town who wishes to speak to the subject of the preliminary resolution.

(d) Within 30 days after the day of the public hearing, the sanitary district board may adopt a final resolution finding that the interests of the citizens of the sanitary district and of the city or town will be best served if both units are governed by a single board. This resolution shall set the date on which the terms of office of the members of the sanitary district board end and that board is dissolved and service by the ex officio board begins. This date may be the effective date of the incorporation of the city or town or any date within one year after the effective date. At that time, the sanitary district board is dissolved and the mayor and members of the governing body of the city or town become ex officio the board of the sanitary district. The mayor shall act ex officio as chairperson of the sanitary district board.

(e) The chairperson of the sanitary district board that adopts a final resolution shall within 10 days after the day the resolution is adopted, send a copy of the resolution to the mayor and each member of the city or town governing board and to the Department.

"§ 130A-52. *Special election if election not held in November of 1981.*—(a) If in a sanitary district, an election of board members was required to be held in November of 1981 under G.S. 130A-50 but was not held, the board of commissioners of the county or counties in which the district is located may by resolution order a special election of all the board members to be held at the same time as the General Election in November of 1982.

(b) The election shall be held under the procedures of Articles 23 and 24 of Chapter 163 of the General Statutes and in accordance with G.S. 130A-50, except that filing shall open at noon on Monday, August 9, 1982, and close at noon on Monday, August 23, 1982.

(c) In the election held under this section, all of the members of the board shall be elected. If the board of commissioners has provided for two- or four-year terms, the members elected in 1982 shall serve until the 1983 or 1985 election, respectively, and then their successors shall be elected for the two- or four-year terms provided by the county board or boards of commissioners.

(d) Any resolution adopted under subsection (a) of this section shall be filed with the Department.

"§ 130A-53. *Actions validated.*—Any action of a sanitary district taken prior to June 1, 1982, shall not be invalidated by failure to hold an election for members of the board.

"§ 130A-54. *Vacancy appointments to district boards.*—Any vacancy in a sanitary district board shall be filled by the county commissioners until the next election for sanitary district board members. If the district is located in more than one county, the vacancy shall be filled by the county commissioners of the county from which the vacancy occurred.

"§ 130A-55. *Corporate powers.*—A sanitary district board shall be a body politic and corporate and may sue and be sued in matters relating to the sanitary district. Notwithstanding any limitation in the petition under G.S.

130A-48, but subject to the provisions of G.S. 130A-55(17)e., each sanitary district may exercise all of the powers granted to sanitary districts by this Article. In addition, the sanitary district board shall have the following powers:

(1) To acquire, construct, maintain and operate sewage collection, treatment and disposal systems of all types, including septic tank systems or other on-site collection, treatment or disposal facilities or systems; water supply systems; water purification or treatment plants and other utilities necessary for the preservation and promotion of the public health and sanitary welfare within the district. The utilities shall be constructed, operated and maintained in accordance with applicable statutes and rules.

(2) To acquire, construct, maintain and operate sewage collection, treatment and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems, water supply systems; water purification or treatment plants and other utilities, within and outside the corporate limits of the district, as may be necessary for the preservation of the public health and sanitary welfare outside the corporate limits of the district, within reasonable limitation. The utilities shall be constructed, operated and maintained in accordance with applicable statutes and rules.

a. The authority granted to a sanitary district by the provisions of this subsection is supplemental to the authority granted to a sanitary district by other provisions of law.

b. Actions taken by a sanitary district to acquire, construct, maintain and operate sewage collection, treatment and disposal systems of all types; water supply systems; water purification or treatment plants and other utilities within and outside the corporate limits to provide service outside the corporate limits are approved and validated.

c. This subsection shall apply only in counties with a population of 70,000 or greater, as determined by the most recent decennial federal census.

(3) To levy taxes on property within the district in order to carry out the powers and duties conferred and imposed on the district by law, and to pay the principal of and interest on bonds and notes of the district.

(4) To acquire either by purchase, condemnation or otherwise and hold real and personal property, easements, rights-of-way and water rights in the name of the district within or without the corporate limits of the district, necessary or convenient for the contruction or maintenance of the works of the district.

(5) To employ and compensate engineers, counsel and other persons as may be necessary to carry out projects.

(6) To negotiate and enter into agreements with the owners of existing water supplies, sewage systems or other utilities as may be necessary to carry out the intent of this Part.

(7) To adopt rules necessary for the proper functioning of the district. However, these rules shall not conflict with rules adopted by the Commission for Health Services, Environmental Management Commission, or the local board of health having jurisdiction over the area.

(8) a. To contract with any person within or outside the corporate limits of the district to supply raw water without charge to the person in return for an agreement to allow the district to discharge sewage in the person's previous water supply. The district may so contract and construct at its expense all improvements necessary or convenient for the delivery of the

water when, in the opinion of the sanitary district board and the Department, it will be for the best of the district.

b. To contract with any person within or outside the corporate limits of the district to supply raw or filtered water and sewer service to the person where the service is available. For service supplied outside the corporate limits of the district, the sanitary district board may fix a different rate from that charged within the corporate limits but shall not be liable for damages for failure to furnish a sufficient supply of water and adequate sewer service.

c. To contract with any person within or outside the corporate limits of the district for the treatment of the district's sewage in a sewage disposal or treatment plant owned and constructed or to be constructed by that person.

(9) After adoption of a plan as provided in G.S. 130A-60, the sanitary district board may, in its discretion, alter or modify the plan if the Department determines that the alteration or modification does not constitute a material deviation from the objective of the plan and is in the public health interest of the district. The alteration or modification must be approved by the Department. The sanitary district board may appropriate or reappropriate money of the district for carrying out the altered or modified plan.

(10) To take action, subject to the approval of the Department, for the prevention and eradication of diseases transmissible by vectors by instituting programs for the eradication of the mosquito.

(11) To collect and dispose of garbage, waste and other refuse by contract or otherwise.

(12) To establish a fire department, or to contract for fire-fighting apparatus and personnel for the protection of life and property within the district.

(13) To provide or contract for rescue service, ambulance service, rescue squad or other emergency medical services for use in the district. The sanitary district shall be subject to G.S. 153A-250.

(14) To have privileges and immunities granted to other governmental units in exercise of the governmental functions.

(15) To use the income of the district, and if necessary, to levy and collect taxes upon all the taxable property within the district sufficient to pay the costs of collecting and disposing of garbage, waste and other refuse, and to provide fire protection and rescue services in the district. Taxes shall be levied and collected at the same time and in the same manner as taxes for debt service as provided in G.S. 130A-62.

(16) To adopt rules for the promotion and protection of the public health and for these purposes to possess the following powers:

a. To require any person owning, occupying or controlling improved real property within the district to connect with either or both the water or sewage systems of the district when the local health director, having jurisdiction over the property, determines that the health of the people residing within the district will be endangered by a failure to connect.

b. To require any person owning, occupying or controlling improved real property within the district where the water or sewage systems of the district are not immediately available or it is impractical with the systems, to install sanitary toilets, septic tanks and other health

equipment or installations in accordance with applicable statutes and rules.

c. To order a person to abate a public health nuisance of the district. If the person being ordered to abate the nuisance refuses to comply with the order, the sanitary district board may institute an action in the superior court of the county where the public health nuisance exists to enforce the order.

d. To abolish or regulate and control the use and occupancy of all pigsties and other animal stockyards or pens within the district and for an additional distance of 500 feet beyond the outer boundaries of the district, unless the 500 feet is within the corporate limits of a city or town.

e. Upon the noncompliance by a person of a rule adopted by the sanitary district board, the board shall notify the person of the rule being violated and the facts constituting the violation. The person shall have a reasonable time to comply with the rule as determined by the local health director of the person's residence. Upon failure to comply within the specified time or within a time extended by the sanitary district board, the person shall be guilty of a misdemeanor.

f. The sanitary district board is authorized to enforce the rules adopted pursuant to this Part by criminal action or civil action, including injunctive relief.

(17) For the purpose of promoting and protecting the public health, safety and the general welfare of the State, a sanitary district board is authorized to establish as zoning units any portions of the sanitary district not under the control of the United States or this State or any agency or instrumentality of either, in accordance with the following:

a. No sanitary district board shall designate an area a zoning area until a petition signed by two-thirds of the qualified voters in the area, as shown by the registration books used in the last general election, and with a petition signed by two-thirds of the owners of real property in the area, as shown by the records in the office of the register of deeds for the county, is filed with the sanitary district board. The petition must be accompanied by a map of the proposed zoning area. The board shall hold a public hearing to obtain comment on the proposed creation of the zoning area. A notice of public hearing must be published in a newspaper of general circulation in the county at least two times, and a copy of the notice shall be posted at the county courthouse and in three other public places in the sanitary district.

b. When a zoning area is established within a sanitary district, the sanitary district board as to the zoning area shall have all rights, privileges, powers and duties granted to municipal corporations under Part 3, Article 19, Chapter 160A of the General Statutes. However, the sanitary district board shall not be required to appoint any zoning commission or board of adjustment. If neither a zoning commission nor board of adjustment is appointed, the sanitary district board shall have all rights.

c. A sanitary district board may enter into an agreement with any city, town or sanitary district for the establishment of a joint zoning commission.

d. A sanitary district board is authorized to use the income of the district and levy and collect taxes upon the taxable property within the district necessary to carry out and enforce the rules and provisions of this subsection.

e. This subsection shall apply only to sanitary districts which adjoin and are contiguous to an incorporated city or town and are located within three miles or less of the boundaries of two other cities or towns.

(18) To negotiate for and acquire by contract any distribution system located outside the district when the water for the distribution system is furnished by the district. If the distribution system is acquired by a district, the district may continue the operation of the system even though it remains outside the district.

(19) To accept gifts of real and personal property for the purpose of operating a nonprofit cemetery; to own, operate and maintain cemeteries with the donated property; and to establish perpetual care funds for the cemeteries in the manner provided by G.S. 160A-347.

(20) To dispose of real or personal property belonging to the district according to the procedures prescribed in Article 12 of Chapter 160A of the General Statutes. For purposes of this subsection, references in Article 12 of Chapter 160A to the 'city', the 'council', or a specific city official refer, respectively, to the sanitary district, the sanitary district board, and the sanitary district official who most nearly performs the same duties performed by the specified city official. For purposes of this subsection, references in G.S. 160A-266(c) to 'one or more city officials' are deemed to refer to one or more sanitary district officials designated by the sanitary district board.

(21) To acquire, renovate property for or construct a medical clinic to serve the district, and to maintain real and personal property for a medical clinic to serve the district.

"§ 130A-56. *Election of officers; board staff.*—(a) Upon election, a sanitary district board shall meet and elect one of its members as chairperson and another member as secretary. Each member of the board may receive a per diem compensation and other compensation as provided for members of State boards under G.S. 138-5, payable from the funds of the district.

(b) The board may employ a clerk, stenographer or other assistants as necessary and may fix duties of and compensation for employees. A sanitary district board may remove employees and fill vacancies.

"§ 130A-57. *Power to condemn property.*—A sanitary district board may purchase real estate, right-of-way or easement within or outside the corporate limits of the district for improvements authorized by this Part. If a purchase price cannot be agreed upon, the board may condemn the real estate, right-of-way or easement in accordance with Chapter 40A of the General Statutes.

"§ 130A-58. *Construction of systems by corporations or individuals.*—When it is inadvisable or impractical for the sanitary district to build a water supply, sewage system or part of either to serve an area within the sanitary district, a corporation or residents within the sanitary district may build and operate a system at its or their own expense. The system shall be constructed and operated under plans and specifications approved by the district board and by the Department. The system shall also be constructed and operated in accordance with applicable rules and statutes.

"§ 130A-59. *Reports.*—Upon the election of a sanitary district board, the board shall employ engineers licensed by this State to make a report on the problems of the sanitary district. The report shall be prepared and filed with the sanitary district board and shall include the following:

(1) Comprehensive maps showing the boundaries of the sanitary district and, in a general way, the location of the various parts of the work that is proposed to be done and information as may be useful for a thorough understanding of the proposed undertaking;

(2) A general description of existing facilities for carrying out the purposes of the district;

(3) A general description of the various plans which might be adopted for accomplishment of the purposes of the district;

(4) General plans and specifications for the work;

(5) General description of property proposed to be acquired or which may be damaged in carrying out the work;

(6) Comparative detail estimates of cost for the various construction plans; and

(7) Recommendations.

"§ 130A-60. *Consideration of reports and adoption of a plan.*—(a) A report filed by the engineers pursuant to G.S. 130A-59 shall be given consideration by the sanitary district board and the board shall adopt a plan. Before adopting a plan the board may hold a public hearing for the purpose of considering objections to the plan. Once adopted, the sanitary district board shall submit the plan to the Department. The plan shall not become effective until it is approved by the Department.

(b) The provisions of this section and of G.S. 130A-58 shall apply when the sanitary district board determines that adoption of the plan requires the issuance of bonds. However, these provisions shall not apply to a proposed purchase of fire-fighting equipment and apparatus. Failure to observe or comply with these provisions shall not, however, affect the validity of the bonds of a sanitary district.

"§ 130A-61. *Bonds and notes authorized.*—A sanitary district is authorized to issue bonds and notes under the Local Government Finance Act.

"§ 130A-62. *Annual budget; tax levy.*—(a) A sanitary district shall operate under an annual balanced budget adopted in accordance with the Local Government Budget and Fiscal Control Act.

(b) A sanitary district has the option of either collecting its own taxes or having its taxes collected by the county or counties in which it is located. Unless a district takes affirmative action to collect its own taxes, taxes shall be collected by the county.

(c) For sanitary districts whose taxes are collected by the county, before May 1 of each year, the tax supervisor of each county in which the district is located shall certify to the district board the total assessed value of property in the county subject to taxation by the district, and the county's assessment ratio. By July 1 or upon adoption of its annual budget ordinance, the district board shall certify to the county board of commissioners the rate of ad valorem tax levied by the district on property in that county. If the assessment ratios are not identical in all counties, the district budget ordinance shall levy separate rates of ad valorem taxes for each county. These rates shall be adjusted so that the effective rate is the same for all property located in the district. The 'effective

rate' is the rate of tax which will produce the same tax liability on property of equal appraised value. Upon receiving the district's certification of its tax levy, the county commissioners shall compute the district tax for each taxpayer and shall separately state the district tax on the county tax receipts for the fiscal year. The county shall collect the district tax in the same manner that county taxes are collected and shall remit these collections to the district at least monthly. Partial payments shall be proportionately divided between the county and the district. The district budget ordinance may include an appropriation to the county for the cost to the county of computing, billing and collecting the district tax. The amount of the appropriation shall be agreed upon by the county and the district, but may not exceed five percent (5%) of the district levy. Any agreement shall remain effective until modified by mutual agreement. The amount due the county for collecting the district tax may be deducted by the county from its monthly remittances to the district or may be paid to the county by the district.

(d) Sanitary districts electing to collect their own taxes shall be deemed cities for the purposes of the Machinery Act. If a district is located in more than one county, the district board may adopt the assessments placed upon property located in the district by the counties in which the district is located if, in the opinion of the board, the same appraisal and assessment standards will apply uniformly throughout the district. If the board determines that adoption of the assessments fixed by the counties will not result in uniform appraisals and assessments throughout the district, the board may, by horizontal adjustments, equalize the appraisal values fixed by the counties and in accordance with the procedure prescribed in the Machinery Act, select and adopt an assessment ratio to be applied to the appraised values of property subject to district taxation as equalized by the board. Taxes levied by the district shall be levied uniformly on the assessments.

"§ 130A-63. *Engineers to provide plans and supervise work; bids.*—(a) The sanitary district board shall retain engineers licensed by this State to provide detailed plans and specifications and to supervise the work undertaken by the district. The work or any portion of the work may be done by the sanitary district board by purchasing the material and letting a contract for the work or by letting a contract for furnishing all the materials and doing the work.

(b) All contracts for work performed for construction or repair and for the purchase of materials by sanitary districts shall be in accordance with the provisions of Article 8, Chapter 143 of the General Statutes which are applicable to counties and municipal corporations.

(c) All work done shall be in accordance with the plans and specifications prepared by the engineers in conformity with the plan adopted by the sanitary district board.

"§ 130A-64. *Service charges and rates.*—A sanitary district board shall apply service charges and rates based upon the exact benefits derived. These service charges and rates shall be sufficient to provide funds for the maintenance, adequate depreciation and operation of the work of the district. If reasonable, the service charges and rates may include an amount sufficient to pay the principal and interest maturing on the outstanding bonds and, to the extent not otherwise provided for, bond anticipation notes of the district. Any surplus from operating revenues shall be set aside as a separate fund to be applied to the payment of interest on or to the retirement of bonds or bond anticipation notes.

The sanitary district board may modify and adjust these service charges and rates.

"§ 130A-65. *Liens for sewer service charges in sanitary districts not operating water distribution system; collection of charges; disconnection of sewer lines.*—In sanitary districts which maintain and operate a sewage system but do not maintain and operate a water distribution system, the charges made for sewer service or for use of sewer service facilities shall be a lien upon the property served. If the charges are not paid within 15 days after they become due and payable, suit may be brought in the name of the sanitary district in the county in which the property served is located, or the property, subject to the lien, may be sold by the sanitary district under the same rules, rights of redemption and savings as are prescribed by law for the sale of land for unpaid ad valorem taxes. A sanitary district is authorized to adopt rules for the use of sewage works and the collection of charges. A sanitary district is authorized in accordance with its rules to enter upon the premises of any person using the sewage works and failing to pay the charges, and to disconnect the sewer line of that person from the district sewer line or disposal plant. A person who connects or reconnects with district sewer line or disposal plant without a permit from the sanitary district shall be guilty of a misdemeanor.

"§ 130A-66. *Removal of member of board.*—A petition with the signatures of twenty-five percent (25%) or more of the voters within a sanitary district which requests the removal from office of one or more members of a sanitary district board for malfeasance or nonfeasance in office may be filed with the board of commissioners of the county in which all or the greater portion of the voters of a sanitary district are located. Upon receipt of the petition, the county board of commissioners shall meet and adopt a resolution to hold an election on the question of removal. In the event that more than one member of a sanitary district board is subjected to recall in an election, the names of each member of the board subjected to recall shall appear upon separate ballots. If in a recall election, a majority of the votes within the sanitary district are cast for the removal of a member or members of the sanitary district board subject to recall, the member or members shall cease to be a member or members of the sanitary district board. A vacancy shall be immediately filled. The expenses of holding a recall election shall be paid from the funds of the sanitary district.

"§ 130A-67. *Rights-of-way granted.*—A right-of-way in, along or across a county or State highway, street or property within a sanitary district is granted to a sanitary district in case the board finds it necessary or convenient for carrying out the work of the district. Any work done in, along or across a State highway shall be done in accordance with the rules of the Board of Transportation.

"§ 130A-68. *Returns of elections.*—In all elections provided for in this Part, the board of elections shall file copies of the returns with the county boards of commissioners, sanitary district board and clerk of superior court in which the district is located.

"§ 130A-69. *Procedure for extension of district.*—(a) If after a sanitary district has been created or the provisions of this Part have been made applicable to a sanitary district, a petition signed by not less than fifteen percent (15%) of the resident freeholders within any territory contiguous to and adjoining the sanitary district may be presented to the sanitary district board requesting annexation of territory described in the petition. The sanitary district board

shall send a copy of the petition to the board of commissioners of the county or counties in which the district is located and to the Department. The sanitary district board shall request that the Department hold a joint public hearing with the sanitary district board on the question of annexation. The Secretary and the chairperson of the sanitary district board shall name a time and place for the public hearing. The chairperson of the sanitary district board shall publish a notice of public hearing once in a newspaper or newspapers published or circulating in the sanitary district and the territory proposed to be annexed. The notice shall be published not less than 15 days prior to the hearing. If after the hearing, the Commission approves the annexation of the territory described in the petition, the Department shall advise the board or boards of commissioners of the approval. The board or boards of commissioners shall order and provide for the holding of a special election upon the question of annexation within the territory proposed to be annexed.

(b) If at or prior to the public hearing, a petition is filed with the sanitary district board signed by not less than fifteen percent (15%) of the freeholders residing in the sanitary district requesting an election be held on the annexation question, the sanitary district board shall send a copy of the petition to the board or boards of commissioners who shall order and provide for the submission of the question to the voters within the sanitary district. This election may be held on the same day as the election in the territory proposed to be annexed, and both elections and registrations may be held pursuant to a single notice. A majority of the votes cast is necessary for a territory to be annexed to a sanitary district.

(c) The election shall be held by the county board or boards of elections as soon as possible after the board or boards of commissioners orders the election. The cost of the election shall be paid by the sanitary district. Registration in the area proposed for annexation shall be under the same procedure as G.S. 163-288.2.

(d) Notice of the election shall be given as required by G.S. 163-33(8) and shall include a statement that the boundary lines of the territory to be annexed and the boundary lines of the sanitary district have been prepared by the district board and may be examined. The notice shall also state that if a majority of the those voting in the election favor annexation, then the territory annexed shall be subject to all debts of the sanitary district.

(e) The ballot shall be substantially as follows:

'☐ FOR annexation to the _____ Sanitary District
☐ AGAINST annexation to the _____ Sanitary District.'

The board or boards of elections shall certify the results of the election to the sanitary district board and the board or boards of commissioners of the county or counties in which the district is located.

(f) Notwithstanding any other provisions of this section, if a petition for extension of the boundaries of a sanitary district is signed by not less than fifty-one percent (51%) of the resident freeholders within the territory proposed to be annexed, it shall not be necessary to hold an election provided for by this section on the question of the extension of the boundaries of the sanitary district.

(g) Notwithstanding any other provisions of this section, if a petition for extension of the boundaries of a sanitary district is signed by the owners of all

the real property within the territory proposed to be annexed, it shall not be necessary to hold any election or any hearings provided for by this section on the question of the extension of the boundaries of the sanitary district.

(h) No right of action or defense founded upon the invalidity of the election shall be asserted, nor shall the validity of the election be open to question in any court on any ground unless the action or proceeding is commenced within 30 days after the certification of the results by the board or boards of elections.

(i) When additional territory has been annexed to a sanitary district and the proposition of issuing bonds of the sanitary district after the annexation has been approved by the voters at an election held within one year subsequent to annexation, fifty-one percent (51%) or more of the resident freeholders within the annexed territory may petition the sanitary district board for the removal and exclusion of the territory from the sanitary district. No petition may be filed after bonds of the sanitary district have been approved in an election held at any time after annexation. If the sanitary district board approves the petition, it shall send a copy to the Department requesting that the petition be granted and shall send additional copies to the county board or boards of commisioners. A public hearing shall be conducted under the same procedure provided for the annexation of additional territory. If the Commission deems it advisable to comply with the request of the petition, the Commission shall adopt a resolution to that effect and shall redefine the boundaries of the sanitary district.

"§ 130A-70. *District and municipality extending boundaries and corporate limits simultaneously.*—(a) When the boundaries of a sanitary district lie entirely within or are coterminous with the corporate limits of a city or town and the sanitary district provides the only public water supply and sewage disposal system for the city or town, the boundaries of the sanitary district and the corporate limits of the city or town may be extended simultaneously as provided in this section.

(b) Twenty-five percent (25%) or more of the resident freeholders within the territory proposed to be annexed to the sanitary district and to the city or town may petition the sanitary district board and the governing board of the city or town setting forth the boundaries of the area proposed to be annexed and the objects annexation is proposed to accomplish. The petition may also include any area already within the corporate limits of the city or town but not already within the boundaries of the sanitary district. Upon receipt of the petition, the sanitary district board and the governing board of the city or town shall meet jointly and shall hold a public hearing prior to approval of the petition. Notice of the hearing shall be made by posting a notice at the courthouse door of the county or counties and by publishing a notice at least once a week for four consecutive weeks in a newspaper with a circulation in the county or counties. If at or after the public hearing the sanitary district board and the governing board of the city or town, acting jointly, shall each approve the petition, the petition shall be submitted to the Commission for approval. If the Commission approves the petition, the question shall be submitted to a vote of all voters in the area or areas proposed to be annexed voting as a whole. The election shall be held on a date approved by the sanitary district board and by the governing board of the city or town.

(c) The words 'For Extension' and 'Against Extension' shall be printed on the ballots for the election. A majority of all the votes cast is necessary for a district and municipality to extend boundaries and corporate limits simultaneously.

(d) After declaration of the extension, the territory and its citizens and property shall be subject to all debts, ordinances and rules in force in the sanitary district and in the city or town, and shall be entitled to the same privileges and benefits as other parts of the sanitary district and the city or town. The newly annexed territory shall be subject to the sanitary district and the city or town taxes levied for the fiscal year following the date of annexation.

(e) The costs of holding and conducting the election for annexation pursuant to this section, shall be shared equally by the sanitary district and by the city or town.

(f) The sanitary district board and the governing board of the city or town acting jointly, may order the board or boards of elections of the county or counties in which the sanitary district and the city or town are located, to call, hold, conduct and certify the result of the election, according to the provisions of Chapter 163 of the General Statutes.

(g) When the boundaries of a sanitary district and the corporate limits of a city or town are extended as provided in this section, and the proposition of issuing bonds of the sanitary district as enlarged has not been approved by the voters at an election held within one year subsequent to the extension, the annexed territory may be removed and excluded from the sanitary district in the manner provided in G.S. 130A-69. If the petition includes areas within the present corporate limits of the city or town but not within the present boundaries of the sanitary district, these areas shall not be removed or excluded from the city or town under the provisions of this section.

(h) The powers granted by this section shall be supplemental and additional to powers conferred by any other law and shall not be regarded as in derogation to any powers now existing.

"§ 130A-71. *Procedure for withdrawing from district.*—Fifty-one percent (51%) or more of the resident freeholders of a portion of a sanitary district which has no outstanding indebtedness, with the approval of the sanitary district board, may petition the county board of commissioners of the county in which a major portion of the petitioners reside, that the identified portion of the district be removed and excluded from the district. If the county board of commissioners approves the petition, an election shall be held in the entire district on the question of exclusion. A majority of all the votes cast is necessary for a district to be removed and excluded from a sanitary district. The county board of commissioners shall notify the Commission who shall remove and exclude the portion of the district, and redefine the limits accordingly.

"§ 130A-72. *Dissolution of certain sanitary districts.*—Fifty-one percent (51%) or more of the resident freeholders of a sanitary district which has no outstanding indebtedness may petition the board of commissioners of the county in which all or the greater portion of the resident freeholders of the district are located to dissolve the district. Upon receipt of the petition, the county board of commissioners shall notify the Department and the chairperson of the county board of commissioners of any other county or counties in which any portion of the district lies, of the receipt of the petition, and shall request that the Department hold a joint public hearing with the county commissioners concerning the dissolution of the district. The Secretary

and the chairperson of the county board of commissioners shall name a time and place within the district for the public hearing. The county board of commissioners shall give prior notice of the hearing by posting a notice at the courthouse door of the county or counties and by publication in a newspaper or newspapers with circulation in the county or counties at least once a week for four consecutive weeks. If all matters pertaining to the dissolution of the sanitary district cannot be concluded at the hearing, the hearing may be continued to a time and place determined by the Department. If after the hearing, the Commission and the county board or boards of commissioners deem it advisable to comply with the request of the petition, the Commission shall adopt a resolution to dissolve the sanitary district. The sanitary district board of the dissolved district is authorized to convey all assets, including cash, to any county, municipality, or other governmental unit, or to any public utility company operating or to be operated under the authority of a certificate of public convenience and necessity granted by the North Carolina Utilities Commission in return for the assumption of the obligation to provide water and sewage services to the area served by the district at the time of dissolution.

"§ 130A-73. *Dissolution of sanitary districts having no outstanding indebtedness and located wholly within or coterminous with corporate limits of city or town.*—When the boundaries of a sanitary district which has no outstanding indebtedness are entirely located within or coterminous with the corporate limits of a city or town, fifty-one percent (51%) or more of the resident freeholders within the district may petition the board of commissioners within the county in which all or the greater portion of the resident freeholders of the district are located to dissolve the district. Upon receipt of the petition, the board of commissioners shall notify the Department, the chairperson of the board of commissioners of any other county or counties in which any portion of the district lies and the governing body of the city or town within which the district lies of the receipt of the petition, and shall request that the Department hold a joint public hearing with the board or boards of commissioners and the governing body of the city or town. The Secretary, the chairperson of the board of commissioners of the county in which all or the greater portion of the resident freeholders are located and the presiding officer of the governing body of the city or town shall name a time and place within the boundaries of the district and the city or town for the public hearing. The county board of commissioners shall give notice of the hearing by posting prior notice at the courthouse door of the county or counties and also by publication in a newspaper or newspapers circulating in the district at least once a week for four consecutive weeks. If all matters pertaining to the dissolution of the sanitary district cannot be concluded at the hearing, the hearing may be continued to a time and place determined by the Department. If, after the hearing, the Commission, the county board or boards of commissioners and the governing body of the city or town shall deem it advisable to comply with the request of the petition, the Commission shall adopt a resolution dissolving the district. All taxes levied by the sanitary district which were levied prior to but which are collected after the dissolution shall vest in the city or town. All property held, owned, controlled or used by the sanitary district upon the dissolution or which may later be vested in the sanitary district, and all judgments, liens, rights and causes of actions in favor of the sanitary district

shall vest in the city or town. At the dissolution, taxes owed to the sanitary district shall be collected by the city or town.

"§ 130A-74. *Validation of creation of districts.*—All actions prior to June 6, 1961, taken by the county boards of commissioners by the State Board of Health, by any officer or by any other agency, board or officer of the State in the formation and creation of sanitary districts in the State, and the formation and creation, or the attempted formation and creation of any sanitary districts are in all respects validated. These sanitary districts are declared lawfully formed and created and in all respects legal and valid sanitary districts.

"§ 130A-75. *Validation of extension of boundaries of districts.*—(a) All actions prior to April 1, 1957, taken by the State Board of Health, a county board of commissioners, and a sanitary district board for the purpose of extending the boundaries of a sanitary district where the territory which was annexed contained no resident freeholders, and where the owner or owners of the real property annexed requested of the sanitary district board that the territory be annexed to the sanitary district, are validated, notwithstanding any lack of power to perform these acts or proceedings, and notwithstanding any defect or irregularity in the acts or proceedings.

(b) All actions and proceedings prior to April 1, 1979, taken by the State Board of Health, the Commission, a board of county commissioners and a sanitary district board for the purpose of annexing additional territory to a sanitary district or with respect to the annexation are validated notwithstanding any lack of power to perform these acts or proceedings or any defect or irregularity in any acts or proceedings, these sanitary districts are lawfully extended to include this additional territory.

"§ 130A-76. *Validation of dissolution of districts.*—All actions prior to January 1, 1981, taken by a county board of commissioners, by the State Board of Health or Commission, by an officer or by any other agency, board or officer of the State in the dissolution of a sanitary district and the dissolution or attempted dissolution of a sanitary district are validated.

"§ 130A-77. *Validation of bonds of districts.*—All actions and proceedings prior to April 1, 1979, taken, and all elections held in a sanitary district or in a district purporting to be a legal sanitary district by virtue of the purported authority and acts of a county board of commissioners, State Board of Health, Commission, or any other board, officer or agency for the purpose of authorizing, selling or issuing the bonds of the sanitary district, and all bonds at any time issued by or on behalf of a sanitary district, are in all respects validated. These bonds are declared to be the legal and binding obligations of the sanitary district.

"§ 130A-78. *Tax levy for validated bonds.*—Sanitary districts are authorized to make appropriations and to levy annually a tax on property having a situs in the district under the rules and according to the procedure prescribed in the Machinery Act for the purpose of paying the principal of and interest on bonds validated in G.S. 130A-77. The tax shall be sufficient for this purpose and shall be in addition to all other taxes which may be levied upon the taxable property in the sanitary district.

"§ 130A-79. *Validation of appointment or election of members of district boards.*—(a) All actions and proceedings prior to June 6, 1961, taken in the appointment or election of members of a sanitary district board are validated.

Members of these boards shall have all the powers and may perform all the duties required or permitted of them to be pursuant to this Part.

(b) All actions and proceedings prior to May 1, 1959, taken in the appointment or election of members of a sanitary district board and the appointment or election of members are validated. Members of these boards shall have all the powers and may perform all the duties required or permitted of them pursuant to the provisions of this Part.

"§ 130A-80. *Merger of district with contiguous city or town; election.*—A sanitary district may merge with a contiguous city or town in the following manner:

(1) The sanitary district board and the governing board of the city or town may resolve that it is advisable to call an election within both the sanitary district and the city or town to determine if the sanitary district and the city or town should merge;

(2) If the sanitary district board and the governing board of the city or town resolve that it is advisable to call for an election, both boards shall adopt a resolution requesting the board of commissioners in the county or counties in which the district and the town or city or any portion is located to hold an election on a date named by the sanitary district board and the governing board of the city or town after consultation with the appropriate board or boards of elections. The election shall be held within the sanitary district and the city or town on the question of merger;

(3) The county board or boards of commissioners shall request the appropriate board or boards of elections to hold and conduct the election. All voters of the city or town and the sanitary district shall be eligible to vote if the election is called in both areas as authorized in subsection (1);

(4) Notice of the election shall be given as required in G.S. 163-33(8). The board or boards of elections may use either method of registration set out in G.S. 163-288.2;

(5) If an election is called as provided in subsection (2), the board or boards of elections shall provide ballots for the election in substantially the following form:

> '☐ FOR merger of the Town of _____ and the _____ Sanitary District, if a majority of the registered voters of both the Sanitary District and the Town vote in favor of merger, the combined territories to be known as the Town of _____ and to assume all of the obligations of the Sanitary District and to receive from the Sanitary District all the property rights of the District; from and after merger residents of the District would enjoy all of the benefits of the municipality and would assume their proportionate share of the obligations of the Town as merged.
>
> ☐ AGAINST merger.'

(6) A majority of all the votes cast by voters of the sanitary district and a majority of all the votes cast by voters of the city or town is necessary for the merger of a sanitary district with the city or town. The merger shall be effective on July 1 following the election. If a majority of the votes cast in either the sanitary district or the city or town vote against the merger, any resolution or

election on similar propositions of merger may not occur until one year from the date of the last election.

(7) Upon the merger of a sanitary district and a city or town pursuant to this section, the city or town shall assume all obligations of the sanitary district and the sanitary district shall convey all property rights to the city or town. The vote for merger shall include a vote for the city or town to assume the obligations of the district. The sanitary district shall cease to exist as a political subdivision from and after the effective date of the merger. After the merger, the residents of the sanitary district enjoy all of the benefits of the municipality and shall assume their share of the obligations of the city or town. All taxes levied and collected by the city or town from and after the effective date of the merger shall be levied and collected uniformly in all the territory included in the enlarged municipality; and

(8) If merger is approved, the governing board of the city or town shall determine the proportion of the district's indebtedness, if any, which was incurred for the construction of water systems and the proportion which was incurred for construction of sewage disposal systems. The governing board shall send a certified copy of the determination to the local government commission in order that the Commission and the governing body of the merged municipality can determine the net debt of the merged municipality as required by G.S. 159-55.

"§ 130A-81. *Incorporation of municipality and simultaneous dissolution of sanitary district, with transfer of assets and liabilities from the district to the municipality.*—The General Assembly may incorporate a municipality, which includes within its boundaries or is coterminous with a sanitary district and provide for the simultaneous dissolution of the sanitary district and the transfer of the district's assets and liabilities to the municipality, in the following manner:

(1) The incorporation act shall define the boundaries of the proposed municipality; shall set the date for and provide for a referendum on the incorporation of the proposed municipality and dissolution of the sanitary district; shall provide for registration of voters in the area of the proposed municipality in accordance with G.S. 163-288.2; shall set a proposed effective date for the incorporation of the municipality and the dissolution of the sanitary district; shall establish the form of government for the proposed municipality and the composition of its governing board, and provide for transitional arrangements for the sanitary district to the municipality; and may include any other matter appropriate to a municipal charter.

(2) The referendum shall be conducted by the board of elections of the county in which the proposed municipality is located. If the proposed municipality is located in more than one county, the board of elections of the county which has the greatest number of residents of the proposed municipality shall conduct the referendum. The board of election shall conduct the referendum in accordance with this section and the provisions of the incorporation act.

(3) The form of the ballot for a referendum under this section shall be substantially as follows:

'☐ FOR incorporation of the Town (City) of _____ and the simultaneous dissolution of the _____ Sanitary District, with transfer of the District's assets and liabilities to the Town (City), and assumption of the District's indebtedness by the Town (City).

☐ AGAINST incorporation of the Town (City) of _____ and the simultaneous dissolution of the _____ Sanitary District, with transfer of the District's assets and liabilities, to the Town (City), and assumption of the District's indebtedness by the Town (City).'

(4) If a majority of those voting in the referendum vote in favor of incorporating the proposed municipality and dissolving the sanitary district, the board of elections shall notify the Department and the Local Government Commission of the date on which the municipality will be incorporated and the sanitary district dissolved and shall state that all assets and liabilities of the sanitary district will be transferred to the municipality and that the municipality will assume the district's indebtedness.

(5) If a majority of those voting in the referendum vote in favor of incorporating the proposed municipality and dissolving the sanitary district, the municipality shall be incorporated and the sanitary district shall be simultaneously dissolved at 12 noon on the date set for incorporation in the incorporation act. At that time:

a. The sanitary district shall cease to exist as a body politic and corporate;
b. All property, real, personal and mixed, belonging to the sanitary district vests in and is the property of the municipality;
c. All judgments, liens, rights and courses of action in favor of the sanitary district vest in favor of the municipality;
d. All rentals, taxes, assessments and other funds, charges or fees owed to the sanitary district are owed to and may be collected by the municipality;
e. Any action, suit, or proceeding pending against, or instituted by the sanitary district shall not be abated by its dissolution, but shall be continued and completed in the same manner as if dissolution had not occurred. The municipality shall be a party to these actions, suits and proceedings in the place of the sanitary district and shall pay any judgment rendered against the sanitary district in any of these actions or proceedings. No new process need be served in any of the actions, suits or proceedings;
f. All obligations of the sanitary district, including outstanding indebtedness, are assumed by the municipality, and all the obligations and outstanding indebtedness are constituted obligations and indebtedness of the municipality. The full faith and credit of the municipality is deemed to be pledged for the payment of the principal of and interest on all general obligation bonds and bond anticipation notes of the sanitary district, and all the taxable property within the municipality shall remain subject to taxation for these payments; and
g. All rules of the sanitary district shall continue in effect until repealed or amended by the governing body of the municipality.

(6) The transition between the sanitary district and the municipality shall be provided for in the incorporation act of the municipality.

"§ 130A-82. *Dissolution of sanitary districts; referendum.*—(a) A county board of commissioners in counties having a population in excess of 275,000 may

dissolve a sanitary district by holding a referendum on the questions of dissolution and assumption by the county of any outstanding indebtedness of the district. The county board of commissioners may dissolve a sanitary district which has no outstanding indebtedness when the members of the district shall vote in favor of dissolution.

(b) Before the dissolution of any district shall be approved, a plan for continued operation and provision of all services and functions being performed or rendered by the district shall be adopted and approved by the board of county commissioners.

(c) No plan shall be adopted unless at the time of its adoption any water system or sanitary sewer system being operated by the district is in compliance with all local, State and federal rules and regulations, and if the system is to be serviced by a municipality, the municipality shall first approve the plan.

(d) When all actions relating to dissolution of the sanitary district have been completed, the chairperson of the county board of commissioners shall notify the Department.

"§ 130A-83. *Merger of two contiguous sanitary districts.*—Two contiguous sanitary districts may merge in the following manner:

(1) The sanitary district board of each sanitary district must first adopt a common proposed plan of merger. The plan shall contain the name of the new or successor sanitary district, designate the members of the merging boards who shall serve as the interim sanitary district board for the new or successor district until the next election required by G.S. 130A-50(b) and G.S. 163-279, and any other matters necessary to complete the merger.

(2) The merger may become effective only if approved by the voters of the two sanitary districts. In order to call an election, both boards shall adopt a resolution calling upon the board of county commissioners in the county or counties in which the districts are located to call for an election on a date named by the sanitary district boards after consultation with the appropriate boards of election. The board or boards of commissioners shall hold an election on the proposed merger of the sanitary districts.

(3) The county board or boards of commissioners shall request the appropriate board of elections to hold and conduct the elections. All voters of the two sanitary districts shall be eligible to vote.

(4) Notice of the elections shall be given as required in G.S. 163-33(8). The board of elections may use the method of registration set out in G.S. 163-288.2.

(5) If an election is called as provided in subsection (2), the board or boards of elections shall provide ballots for the election in substantially the following form:

'☐ FOR the merger of the ___ Sanitary District and the ___ Sanitary District into a single district to be known as the ___ Sanitary District, in which all the property, assets, liabilities, obligations, and indebtedness of the two districts become the property, assets, liabilities, obligations, and indebtedness of the ___ Sanitary District.

☐ AGAINST the merger of the ___ Sanitary District and the ___ Sanitary District into a single district to be known as the ___ Sanitary District, in which all the property, assets, liabilities, obligations, and indebtedness of the two districts become the

property, assets, liabilities, obligations, and indebtedness of the ___ Sanitary District.'

(6) If a majority of all the votes cast in each sanitary district vote in favor of the merger, the two sanitary districts shall be merged on July 1 following the election. Should the majority of the votes cast in either sanitary district be against the proposition, the sanitary districts shall not be merged. If a majority of the votes cast in either sanitary district are against the merger, any resolution or election on similar propositions of merger may not occur until one year from the date of the last election.

(7) Upon the merger of two sanitary districts pursuant to this section and the creation of a new district, the merger becomes effective at 12 noon on the following July 1. At that time:

a. The two sanitary districts shall cease to exist as bodies politic and corporate, and the new sanitary district exists as a body politic and corporate.

b. All property, real, personal and mixed, belonging to the sanitary districts vests in and is the property of the new sanitary district.

c. All judgments, liens, rights of liens and causes of action in favor of either sanitary district vest in the new sanitary district.

d. All rentals, taxes, assessments and other funds, charges or fees owed to either of the sanitary districts are owed to and may be collected by the new sanitary district.

e. Any action, suit, or proceeding pending against, or having been instituted by, either of the sanitary districts shall not be abated by its dissolution, but shall be continued and completed in the same manner as if dissolution had not occurred. The new sanitary district shall be a party to all these actions, suits and proceedings in the place of the dissolved sanitary district and shall pay any judgment rendered against either of the sanitary districts in any of these actions or proceedings. No new process need be served in any of the actions, suits or proceedings.

f. All obligations of either of the sanitary districts, including any outstanding indebtedness, are assumed by the new sanitary district and all the obligations and outstanding indebtedness are constituted obligations and indebtedness of the new sanitary district. The full faith and credit of the new sanitary district is deemed to be pledged for the punctual payment of the principal of and interest on all general obligation bonds and bond anticipation notes of either of the sanitary districts, and all the taxable property within the new sanitary district shall remain subject to taxation for these payments.

g. All rules of either of the sanitary districts shall continue in effect until repealed or amended by the governing body of the new sanitary district.

(8) Upon the merger of two sanitary districts pursuant to this section when one district is to be dissolved and the other district is to be a successor covering the territory of both, the merger becomes effective at 12 noon on the following July 1. At that time:

a. One sanitary district shall cease to exist as a body politic and corporate, and the successor sanitary district continues to exist as a body politic and corporate.

b. All property, real, personal and mixed, belonging to the sanitary districts vests in, and is the property of the successor sanitary district.

c. All judgments, liens, rights of liens and causes of action in favor of either sanitary district vest in the successor sanitary district.

d. All rentals, taxes, assessments and other funds, charges or fees owed either of the sanitary districts are owed to and may be collected by the successor sanitary district.

e. Any action, suit, or proceeding pending against, or instituted by either of the sanitary districts shall not be abated by its dissolution, but shall be continued and completed in the same manner as if dissolution had not occurred. The successor sanitary district shall be a party to all these actions, suits and proceedings in the place of the dissolved sanitary district and shall pay any judgment rendered against the sanitary district in any of these actions or proceedings. No new process need be served in any of the actions, suits or proceedings.

f. All obligations of either of the sanitary districts, including any outstanding indebtedness, are assumed by the successor sanitary district and all the obligations and outstanding indebtedness are constituted obligations and indebtedness of the successor sanitary district. The full faith and credit of the successor sanitary district is deemed to be pledged for the punctual payment of the principal of and interest on all general obligation bonds and bond anticipation notes of either of the sanitary districts, and all the taxable property within the successor sanitary district shall be and remain subject to taxation for these payments.

g. All rules of either of the sanitary districts shall continue in effect until repealed or amended by the governing body of the successor sanitary district.

"§ 130A-84. *Withdrawal of water.*—A sanitary district is empowered to engage in litigation or to join with other parties in litigation opposing the withdrawal of water from a river or other water supply.

"§ 130A-85 to 130A-87: Reserved for future codification purposes.

"ARTICLE 3.

"State Laboratory of Public Health.

"§ 130A-88. *Laboratory established.*—(a) A State Laboratory of Public Health is established within the Department. The Department is authorized to make examinations, and provide consultation and technical assistance as the public health may require.

(b) The Commission shall adopt rules necessary for the operation of the State Laboratory of Public Health.

"§ 130A-89: Reserved for future codification purposes.

"ARTICLE 4.

"Vital Statistics.

"§ 130A-90. *Vital statistics program.*—The Department shall maintain a Vital Statistics Program which shall operate the only system of vital records registration throughout this State.

"§ 130A-91. *State Registrar.*—The Secretary shall appoint a State Registrar of Vital Statistics. The State Registrar of Vital Statistics shall exercise all the authority conferred by this Article.

"§ 130A-92. *Duties of the State Registrar.*—(a) The State Registrar shall secure and maintain all vital records required under this Article and shall do all things necessary to carry out its provisions. The State Registrar shall:

(1) Examine vital records received from local registrars to determine if these records are complete and satisfactory, and require the provision of information necessary to make the records complete and satisfactory;

(2) Permanently preserve the vital records in a systematic manner in adequate fireproof space which shall be provided in a State building by the Department of Administration, and maintain a comprehensive and continuous index of all vital records;

(3) Prepare and supply all forms used in carrying out the provisions of this Article which shall be the only forms used to file vital records in this State;

(4) Appoint local registrars as required by G.S. 130A-95 and exercise supervisory authority over local registrars, deputy local registrars and sub-registrars;

(5) Enforce the provisions of this Article, investigate cases of irregularity or violations and report violations to law enforcement officials for prosecution under G.S. 130A-26;

(6) Conduct studies and research and recommend to the General Assembly any additional legislation necessary to carry out the purposes of this Article; and

(7) Adopt rules necessary to carry out the provisions of this Article.

"§ 130A-93. *Access to vital records; copies.*—(a) Only the State Registrar shall have access to original vital records.

(b) The State Registrar shall provide copies or abstracts of vital records, except those described in subsections (d), (e), (f) and (g), to any person upon request.

(c) The State Registrar shall provide certified copies of vital records, except those described in subsections (d), (e), (f), and (g), only to the following:

(1) A person requesting a copy of the person's own vital records or that of the person's spouse, child, parent, brother or sister;

(2) A person seeking information for a legal determination of personal or property rights; or

(3) An authorized agent, attorney or legal representative of a person described above.

(d) Copies, certified copies or abstracts of birth certificates of adopted persons shall be provided in accordance with G.S. 48-29.

(e) Copies or abstracts of the health and medical information contained on birth certificates shall be provided only to a person requesting a copy of the health and medical information contained on the person's own birth certificate, a person authorized by that person, or a person who will use the information for research purposes. The State Registrar shall adopt rules providing for the use of this information for research purposes.

(f) Copies, certified copies or abstracts of new birth certificates issued to persons in the federal witness protection program shall be provided only to a

person requesting a copy of the person's own birth certificate and that person's supervising federal marshall.

(g) No copies, certified copies or abstracts of vital records shall be provided to a person purporting to request copies, certified copies or abstracts of that person's own vital records upon determination that the person whose vital records are being requested is deceased.

(h) A certified copy issued under the provisions of this section shall have the same evidentiary value as the original and shall be *prima facie* evidence of the facts stated in the document. The State Registrar may appoint agents who shall have the authority to issue certified copies under a facsimile signature of the State Registrar. These copies shall have the same evidentiary value as those issued by the State Registrar.

(i) The State Registrar shall be entitled to a fee not to exceed three dollars ($3.00) for issuing any copy of a vital record or for conducting a search of the files for the records when no copy is made. An account of all fees received shall be kept and the fees turned over to the State Treasurer for use by the Department for public health purposes.

(j) No person shall prepare or issue any certificate which purports to be an official certified copy of a vital record except as authorized in this Article or the rules.

"§ 130A-94. *Local registrar.*—The local health director shall serve, ex officio, as the local registrar of each county within the jurisdiction of the local health department.

"§ 130A-95. *Control of local registrar.*—The State Registrar shall direct, control and supervise the activities of local registrars and may remove a local registrar for cause.

"§ 130A-96. *Appointment of deputy and sub-registrars.*—(a) Each local registrar shall immediately upon appointment, appoint a deputy whose duty shall be to assist the local registrar and to act as local registrar in case of absence, illness, disability or removal of the local registrar. The deputy shall be designated in writing and be subject to all rules and statutes governing local registrars. The local registrar shall direct, control and supervise the activities of the deputy registrar and may remove a deputy registrar for cause.

(b) The local registrar may, when necessary and with the approval of the State Registrar, appoint one or more persons to act as sub-registrars. Sub-registrars shall be authorized to receive certificates and issue burial-transit permits in and for designated portions of the county. Each sub-registrar shall enter the date the certificate was received and shall forward all certificates to the local registrar within three days.

(c) The State Registrar shall direct, control and supervise sub-registrars and may remove a sub-registrar for cause.

"§ 130A-97. *Duties of local registrars.*—The local registrar shall:

(1) Administer and enforce provisions of this Article and the rules, and immediately report any violation to the State Registrar;

(2) Furnish certificate forms and instructions supplied by the State Registrar to persons who require them;

(3) Examine each certificate when submitted to determine if it has been completed in accordance with the provisions of this Article and the rules. If a certificate is incomplete or unsatisfactory, the responsible person shall be notified and required to furnish the necessary information. All birth and death

certificates shall be typed or written legibly in permanent black or blue-black ink;

(4) Enter the date on which a certificate is received and sign as local registrar;

(5) Transmit to the register of deeds of the county a copy of each certificate registered within seven days of receipt of a birth or death certificate. The copy transmitted shall include the race of the father and mother if that information is contained on the State copy of the certificate of live birth. Copies transmitted may be on blanks furnished by the State Registrar or may be photocopies made in a manner approved by the register of deeds. The local registrar may also keep a copy of each certificate for no more than two years;

(6) On the fifth day of each month or more often, if requested, send to the State Registrar all original certificates registered during the preceding month; and

(7) Maintain records, make reports and perform other duties required by the State Registrar.

"§ 130A-98. *Pay of local registrars.*—A local health department shall provide sufficient staff, funds and other resources necessary for the proper administration of the local vital records registration program.

"§ 130A-99. *Register of deeds to preserve copies of birth and death records.*—The register of deeds of each county shall file and preserve the copies of birth and death certificates furnished by the local registrar under the provisions of G.S. 130A-97, and shall make and keep a proper index of the certificates. These certificates shall be open to inspection and examination. Copies or abstracts of these certificates shall be provided to any person upon request. Certified copies of these certificates shall be provided only to those persons described in G.S. 130A-93(c).

"§ 130A-100. *Register of deeds may perform notarial acts.*—(a) The register of deeds is authorized to take acknowledgments, administer oaths and affirmations and to perform all other notarial acts necessary for the registration or issuance of certificates relating to births, deaths or marriages. The register of deeds shall be entitled to a fee as prescribed in G.S. 161-10.

(b) All acknowledgments taken, affirmations or oaths administered or other notarial acts performed by the register of deeds relating to the registration of certificates of births, deaths or marriages prior to June 16, 1959, are validated.

"§ 130A-101. *Birth registration.*—(a) A certificate of birth for each live birth, regardless of the gestation period, which occurs in this State shall be filed with the local registrar of the county in which the birth occurs within five days after the birth and shall be registered by the registrar if it has been completed and filed in accordance with this Article and the rules.

(b) When a birth occurs in a hospital or other medical facility, the person in charge of the facility shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar. The physician or other person in attendance shall provide the medical information required by the certificate and shall certify the facts of birth within five days after the birth. If the physician or other person in attendance does not certify the facts of birth within the five-day period, the person in charge of the facility may complete and sign the certificate.

(c) When a birth occurs outside a hospital or other medical facility, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) The physician in attendance at or immediately after the birth, or in the absence of such a person;

(2) Any other person in attendance at or immediately after the birth, or in the absence of such a person;

(3) The father, the mother or, in the absence or inability of the father and the mother, the person in charge of the premises where the birth occurred.

(d) When a birth occurs on a moving conveyance and the child is first removed from the conveyance in this State, the birth shall be registered in the county where the child is first removed from the conveyance, and that place shall be considered the place of birth.

(e) If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless paternity has been otherwise determined by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered. The surname of the child shall be the same as that of the husband, except that upon agreement of the husband and mother, or upon agreement of the mother and father if paternity has been otherwise determined, any surname may be chosen.

(f) If the mother was unmarried at all times from date of conception through date of birth, the name of the father shall not be entered on the certificate without written consent, under oath, of both the father and the mother. The surname of the child shall be determined by the mother, except if the father's name is entered on the certificate, the mother and father shall agree upon the child's surname. If there is no agreement, the child's surname shall be the same as that of the mother.

"§ 130A-102. *Contents of birth certificate.*—The certificate of birth shall contain those items recommended by the federal agency responsible for national vital statistics, except as amended or changed by the State Registrar. Medical information contained in a birth certificate shall not be public records open to inspection.

"§ 130A-103. *Registration of birth certificates more than five days and less than one year after birth.*—Any birth may be registered more than five days and less than one year after birth in the same manner as births are registered under this Article within five days of birth. The registration shall have the effect as if the registration had occurred within five days of birth. The registration however, shall not relieve any person of criminal liability for the failure to register the birth within five days of birth as required by G.S. 130A-101.

"§ 130A-104. *Registration of birth one year or more after birth.*—(a) When the birth of a person born in this State has not been registered within one year after birth, a delayed certificate may be filed with the register of deeds in the county in which the birth occurred. An applicant for a delayed certificate must submit the minimum documentation prescribed by the State Registrar.

(b) A certificate of birth registered one year or more after the date of the birth shall be marked 'delayed' and show the date of the delayed registration. A summary statement of evidence submitted in support of the delayed registration shall be endorsed on the certificate. The register of deeds shall forward the original and a duplicate to the State Registrar for final approval. If the certificate complies with the rules and has not been previously registered,

the State Registrar shall file the original and return the duplicate to the register of deeds for recording.

(c) When an applicant does not submit the minimum documentation required or when the State Registrar finds reason to question the validity or adequacy of the certificate or documentary evidence, the State Registrar shall not register the delayed certificate and shall advise the applicant of the reasons for this action. If the deficiencies are not corrected, the applicant shall be advised of the right to an administrative hearing and of the availability of a judicial determination under G.S. 130A-106.

(d) Delayed certificates shall have the same evidentiary value as those registered within five days.

"§ 130A-105. *Validation of irregular registration of birth certificates.*—The registration and filing with the State Registrar prior to April 1, 1941, of the birth certificate of a person whose birth was not registered within five days of birth is validated. All copies of birth certificates filed prior to April 9, 1941, properly certified by the State Registrar, shall have the same evidentiary value as those registered within five days.

"§ 130A-106. *Establishing fact of birth by persons without certificates.*—(a) A person born in this State not having a recorded certificate of birth, may file a verified petition with the clerk of the superior court in the county of the petitioner's legal residence or place of birth, setting forth the date, place of birth and parentage, and petitioning the clerk to hear evidence, and to find and adjudge the date, place and parentage of the birth of the petitioner. Upon the filing of a petition, the clerk shall set a hearing date, and shall conduct the proceeding in the same manner as other special proceedings. At the time set for the hearing, the petitioner shall present evidence to establish the facts of birth. If the evidence offered satisfies the court, the court shall enter judgment establishing the date, place of birth and parentage of the petitioner, and record it in the record of special proceedings. The clerk shall certify the judgment to the State Registrar who shall keep a record of the judgment. A copy shall be certified to the register of deeds of the county in which the petitioner was born.

(b) The clerk may charge a fee not to exceed two dollars ($2.00) for services provided under this section.

(c) The record of birth established under this section, when recorded, shall have the same evidentiary value as other records covered by this Article.

"§ 130A-107. *Establishing facts relating to a birth of unknown parentage; certificate of identification.*—(a) A person of unknown parentage whose place and date of birth are unknown may file a verified petition with the clerk of the superior court in the county where the petitioner was abandoned. The petition shall set forth the facts concerning abandonment, the name, date and place of birth of petitioner and the names of any persons acting in loco parentis to the petitioner.

(b) The clerk shall find facts and, if there is insufficient evidence to establish the place of birth, it shall be conclusively presumed that the person was born in the county of abandonment. The clerk shall enter and record judgment in the record of special proceedings. The clerk shall certify the judgment to the State Registrar who shall keep a record of the judgment. A copy shall be certified to the register of deeds of the county of abandonment.

(c) A certificate of identification for a person of unknown parentage shall be filed by the clerk with the local registrar of vital statistics of the district in which the person was found.

(d) The clerk may charge a fee not to exceed two dollars ($2.00) for services provided under this section.

"§ 130A-108. *Certificate of identification for child of foreign birth.*—In the case of an adopted child born in a foreign country and having legal settlement in this State, the State Registrar shall, upon the presentation of a certified copy of the original birth certificate from the country of birth and a copy of the final order of adoption signed by the clerk of court or other appropriate official, prepare a certificate of identification for the child. The certificate shall contain the same information required by G.S. 48-29(a) for children adopted in this State, except that the country of birth shall be specified in lieu of the state of birth.

"§ 130A-109. *Birth certificate as evidence.*—Certified copies of birth certificates shall be accepted by public school authorities in this State as prima facie evidence of the age of children registering for school attendance, and no other proof shall be required. In addition, certified copies of birth certificates shall be required by all factory inspectors and employers of youthful labor, as prima facie proof of age, and no other proof shall be required. However, when it is not possible to secure a certified copy of a birth certificate, school authorities, factory inspectors and employers may accept as secondary proof of age any competent evidence by which the age of persons is usually established.

"§ 130A-110. *Registration of marriage certificates.*—(a) On or before the fifteenth day of the month, the register of deeds shall transmit to the State Registrar a record of each marriage ceremony performed in the county during the preceding calendar month. The State Registrar shall prescribe a form containing the information required by G.S. 50-16 and additional information to conform with the requirements of the federal agency responsible for national vital statistics. The form shall be the official form of a marriage license, certificate of marriage and application for marriage license.

(b) Each form signed and issued by the register of deeds, assistant register of deeds or deputy register of deeds shall constitute an original or a duplicate original. Upon request, the State Registrar shall furnish a true copy of the marriage registration. The copy shall have the same evidentiary value as the original. A fee not to exceed three dollars ($3.00) may be charged for this service.

(c) The register of deeds shall provide copies or abstracts of marriage certificates to any person upon request. Certified copies of these certificates shall be provided only to those persons described in G.S. 130A-93(c).

(d) Marriage certificates maintained by the local register of deeds shall be open to inspection and examination.

"§ 130A-111. *Registration of divorces and annulments.*—For each divorce and annulment of marriage granted by a court of competent jurisdiction in this State, a report shall be prepared and filed by the clerk of court with the State Registrar. The information necessary to prepare the report shall be furnished to the clerk by the parties or their legal representatives. The report shall contain as a minimum those items specified on the standard certificate of divorce and annulment as prepared by the federal agency responsible for national vital statistics. The State Registrar may require additional information. On or before

the fifteenth day of each month, the clerk shall forward to the State Registrar the report of each divorce and annulment granted during the preceding calendar month.

"§ 130A-112. *Notification of death.*—A funeral director or person acting as such who first assumes custody of a dead body or fetus of 20 completed weeks gestation or more shall submit a notification of death to the local registrar in the county where death occurred, within 24 hours of taking custody of the body or fetus. The notification of death shall identify the attending physician responsible for medical certification, except that for deaths under the jurisdiction of the medical examiner, the notification shall identify the medical examiner and certify that the medical examiner has released the body to a funeral director or person acting as such for final disposition.

"§ 130A-113. *Permits for burial-transit, authorization for cremation and disinterment-reinterment.*—(a) The funeral director or person acting as such who first assumes custody of a dead body or fetus which is under the jurisdiction of the medical examiner shall obtain a burial0transit permit signed by the medical examiner prior to final disposition or removal from the State and within five days after death.

(b) A dead body shall not be cremated or buried at sea unless the provisions of G.S. 130A-388 are met.

(c) A permit for disinterment-reinterment shall be required prior to disinterment of a dead body or fetus except as otherwise authorized by law or rule. The permit shall be issued by the local registrar to a funeral director, embalmer or other person acting as such upon proper application.

(d) No dead body or fetus shall be brought into this State unless accompanied by a burial-transit or disposal permit issued under the law of the state in which death or disinterment occurred. The permit shall be final authority for final disposition of the body or fetus in this State.

(e) The local registrar shall issue a burial-transit permit for the removal of a dead body or fetus from this State if the requirements of G.S. 130A-112 are met and that the death is not under the jurisdiction of the medical examiner.

"§ 130A-114. *Fetal death registration.*—(a) Each spontaneous fetal death occurring in the State of 20 completed weeks gestation or more, as calculated from the first day of the last normal menstrual period until the day of delivery, shall be reported within five days after delivery to the local registrar of the county in which the delivery occurred. The report shall be made on a form prescribed and furnished by the State Registrar.

(b) When fetal death occurs in a hospital or other medical facility, the person in charge of the facility shall obtain the cause of fetal death and other required medical information over the signature of the attending physician, and shall prepare and file the report with the local registrar.

(c) When a fetal death occurs outside of a hospital or other medical facility, the physician in attendance at or immediately after the delivery shall prepare and file the report. When a fetal death is attended by a person authorized to attend childbirth, the supervising physician shall prepare and file the report. Fetal deaths attended by lay midwives and all other persons shall be treated as deaths without medical attendance as provided for in G.S. 130A-115 and the medical examiner shall prepare and file the report.

"§ 130A-115. *Death registration.*—(a) A death certificate for each death which occurs in this State shall be filed with the local registrar of the county in

which the death occurred within five days after the death. If the place of death is unknown, a death certificate shall be filed within five days in the county where the dead body is found. If the death occurs in a moving conveyance, a death certificate shall be filed in the county in which the dead body was first removed from the conveyance.

(b) The funeral director or person acting as such who first assumes custody of a dead body shall file the death certificate with the local registrar. The personal data shall be obtained from the next of kin or the best qualified person or source available. The funeral director or person acting as such is responsible for obtaining the medical certification of the cause of death, stating facts relative to the date and place of burial, and filing the death certificate with the local registrar within five days of the death.

(c) The medical certification shall be completed and signed by the physician in charge of the patient's care for the illness or condition which resulted in death, except when the death falls within the circumstances described in G.S. 130A-383. In the absence of the physician or with the physician's approval, the certificate may be completed and signed by an associate physician, the chief medical officer of the hospital or facility in which the death occurred or a physician who performed an autopsy upon the decedent under the following circumstances: the individual has access to the medical history of the deceased; the individual has viewed the deceased at or after death; and the death is due to natural causes. The physician shall state the cause of death on the certificate in definite and precise terms. A certificate containing any indefinite terms or denoting only symptoms of disease or conditions resulting from disease as defined by the State Registrar, shall be returned to the person making the medical certification for correction and more definite statement.

(d) The physician or medical examiner making the medical certification as to the cause of death shall complete the medical certification no more than three days after death. The physician or medical examiner may, in appropriate cases, designate the cause of death as unknown pending an autopsy or upon some other reasonable cause for delay, but shall send the supplementary information to the local registrar as soon as it is obtained.

(e) In the case of death or fetal death without medical attendance, it shall be the duty of the funeral director or person acting as such and any other person having knowledge of the death to notify the local medical examiner of the death. The body shall not be disposed of or removed without the permission of the medical examiner. If there is no county medical examiner, the Chief Medical Examiner shall be notified.

"§ 130A-116. *Contents of death certificate.*—The certificate of death shall contain those items prescribed and specified on the standard certificate of death as prepared by the federal agency responsible for national vital statistics. The State Registrar may require additional information.

"§ 130A-117. *Persons required to keep records and provide information.*—(a) All persons in charge of hospitals or other institutions, public or private, to which persons resort for confinement or treatment of diseases or to which persons are committed by process of law, shall make a record of personal data concerning each person admitted or confined to the institution. The record shall include information required for the certificates of birth and death and the reports of spontaneous fetal death required by this Article. The record shall be made at the time of admission from information provided by the person

being admitted or confined. When this information cannot be obtained from this person, it shall be obtained from relatives or other knowledgeable persons.

(b) When a dead body or dead fetus of 20 weeks gestation or more is released or disposed of by an institution, the person in charge of the institution shall keep a record showing the name of the decedent, date of death, name and address of the person to whom the body or fetus is released and the date of removal from the institution. If final disposition is made by the institution, the date, place, and manner of disposition shall also be recorded.

(c) A funeral director, embalmer, or other person who removes from the place of death, transports or makes final disposition of a dead body or fetus, shall keep a record which shall identify the body, and information pertaining to the receipt, removal, delivery, burial, or cremation of the body, as may be required by the State Registrar. In addition, that person shall file a certificate or other report required by this Article or the rules of the Commission.

(d) Records maintained under this section shall be retained for a period of not less than three years and shall be made available for inspection by the State Registrar upon request.

"§ 130A-118. *Amendment of birth and death certificates.*—(a) After acceptance for registration by the State Registrar, no record made in accordance with this Article shall be altered or changed, except by a request for amendment. The State Registrar may adopt rules governing the form of these requests and the type and amount of proof required.

(b) A new certificate of birth shall be made by the State Registrar when:

(1) Proof is submitted to the State Registrar that the previously unwed parents of a person have intermarried subsequent to the birth of the person;

(2) Notification is received by the State Registrar from the clerk of a court of competent jurisdiction of a judgment, order or decree disclosing different or additional information relating to the parentage of a person;

(3) Satisfactory proof is submitted to the State Registrar that there has been entered in a court of competent jurisdiction a judgment, order or decree disclosing different or additional information relating to the parentage of a person; or

(4) A written request from an individual is received by the State Registrar to change the sex on that individual's birth record because of sex reassignment surgery, if the request is accompanied by a notarized statement from the physician who performed the sex reassignment surgery or from a physician licensed to practice medicine who has examined the individual and can certify that the person has undergone sex reassignment surgery.

(c) A new birth certificate issued under subsection (b) may reflect a change in surname when:

(1) A child is legitimated by subsequent marriage and the parents agree and request that the child's surname be changed; or

(2) A child is legitimated under G.S. 49-10 and the parents agree and request that the child's surname be changed, or the court orders a change in surname after determination that the change is in the best interests of the child.

(d) For the amendment of a certificate of birth or death after its acceptance for filing, or for the making of a new certificate of birth under this Article, the

State Registrar shall be entitled to a fee not to exceed seven dollars and fifty cents ($7.50) to be paid by the applicant.

(e) When a new certificate of birth is made, the State Registrar shall substitute the new certificate for the certificate of birth then on file, and shall forward a copy of the new certificate to the register of deeds of the county of birth. The copy of the certificate of birth on file with the register of deeds, if any, shall be forwarded to the State Registrar within five days. The State Registrar shall place under seal the original certificate of birth, the copy forwarded by the register of deeds and all papers relating to the original certificate of birth. The seal shall not be broken except by an order of a court of competent jurisdiction. Thereafter, when a certified copy of the certificate of birth of the person is issued, it shall be a copy of the new certificate of birth, except when an order of a court of competent jurisdiction shall require the issuance of a copy of the original certificate of birth.

"§ 130A-119. *Clerk of Court to furnish State Registrar with facts as to paternity of illegitimate children judicially determined.*—Upon the entry of a judgment determining the paternity of an illegitimate child, the clerk of court of the county in which the judgment is entered shall notify the State Registrar in writing of the name of the person against whom the judgment has been entered, together with the other facts disclosed by the record as may assist in identifying the record of the birth of the child as it appears in the office of the State Registrar. If the judgment is modified or vacated, that fact shall be reported by the clerk to the State Registrar in the same manner. Upon receipt of the notification, the State Registrar shall record the information upon the birth certificate of the illegitimate child.

"§ 130A-120. *Certification of birth dates furnished to veterans' organizations.*—Upon application by any veterans' organization in this State in connection with junior or youth baseball, the State Registrar shall furnish certification of dates of birth without the payment of the fees prescribed in this Article.

"§ 130A-121 to 130A-123: Reserved for future codification purposes.

"ARTICLE 5.

"Maternal and Child Health.

"Part 1. In General.

"§ 130A-124. *Department to establish maternal and child health program.*—(a) The Department shall establish and administer a maternal and child health program for the delivery of preventive, diagnostic, therapeutic and habilitative health services to women of childbearing years, children and other persons who require these services. The program may include, but shall not be limited to, providing professional education and consultation, community coordination and direct care and counseling.

(b) The Commission shall adopt rules necessary to implement the program.

"§ 130A-125 to 130A-126: Reserved for future codification purposes.

"Part 2. Perinatal Health Care.

"§ 130A-127. *Department to establish program.*—(a) The Department shall establish and administer a perinatal health care program. The program may include, but shall not be limited to:

(1) Prenatal health care services including health education and identification of high-risk pregnancies;

(2) Prenatal, delivery and newborn health care services provided at hospitals participating at graduated levels of complexity; and

(3) Regionalized perinatal health care services including a plan for effective communication, consultation, referral and transportation links among hospitals, health departments, physicians, schools and other relevant community resources for mothers and infants at high risk for mortality and morbidity.

(b) The Commission shall adopt rules necessary to implement the program.

"§ 130A-128. *Statewide advisory council.*—The Secretary shall appoint a Perinatal Health Care Program Advisory Council composed of 10 members with representation as follows: obstetrics, pediatrics, public health, nursing, social services, hospital administration, consumers and other members. Members shall serve terms of three years except that members may be appointed for terms of less than three years to achieve a staggered term structure. The Council shall advise the Secretary in the planning, organization, administration and evaluation of the program. The Council shall annually elect a chairperson from among its members and shall meet at least quarterly and upon the request of the Secretary.

"§ 130A-129 to 130A-132: Reserved for future codification purposes.

"ARTICLE 6.

"Communicable Diseases.

"Part 1. In General.

"§ 130A-133. *Definitions.*—The following definitions shall apply throughout this Article:

(1) 'Communicable disease' means an illness due to an infectious agent or its toxic products which is transmitted directly or indirectly to a person from an infected person or animal through the agency of an intermediate animal, host or vector, or through the inanimate environment.

(2) 'Isolation authority' means the authority to separate for the period of communicability, infected persons or animals in places and under conditions as will prevent the direct or indirect conveyance of the infectious agent from infected persons to other persons who are susceptible or who may spread the agent to others.

(3) 'Outbreak' means an occurrence of a case or cases of a disease in a locale in excess of the usual number of cases of the disease.

(4) 'Quarantine authority' means the authority to limit the freedom of movement of persons or animals which have been exposed to or are reasonably suspected of having been exposed to communicable disease for a period of time as may be necessary to prevent the spread of that disease. The term also means the authority to limit the freedom of movement of persons who have not received immunizations against a communicable disease listed in G.S. 130A-152 when the local health director determines that such immunizations are required to control an outbreak of that disease.

"§ 130A-134. *Reportable diseases.*—The Commission shall establish by rule a list of communicable diseases to be reported.

"§ 130A-135. *Physician to report.*—A physician licensed to practice medicine who has reason to suspect that a person about whom the physician has been consulted professionally has a disease declared by the Commission to be reported, shall within 24 hours report the name and address of the person to the local health director of the county or district in which the person is living at

the time of consultation. If the person is a minor, the physician shall also notify the local health director of the name and address of the parent or guardian of the minor.

"§ 130A-136. *School principals and day-care operators to report.*—A principal of a school and an operator of a day-care facility, as defined in G.S. 110-86(3), shall notify the local health director of the county or district in which the school or facility is located of the name and address of any person within the school or day-care facility whom the principal, the operator or the staff has reason to suspect of having a disease declared by the Commission to be reported.

"§ 130A-137. *Medical facilities may report.*—A medical facility, in which there is a patient reasonably suspected of having a disease declared by the Commission to be reported, may report the name and address of the patient to the local health director of the county or district in which the patient is living.

"§ 130A-138. *Local health directors to report to the Department.*—A local health director shall report to the Department all cases of diseases reported to the local health director pursuant to this Article within 24 hours of the receipt of the report.

"§ 130A-139. *Person in charge of laboratories to report positive tuberculosis tests.*—(a) The person in charge of a bacteriological or pathological laboratory providing diagnostic service in this State shall report to the Department within seven days after diagnosis, the full name and other required information relating to the person whose sputa, gastric content or other specimens submitted for examination are smear positive for acid-fast bacilli or culture positive for mycobacterium tuberculosis. The report shall include the name and address of the physician or any person or agency referring the positive specimen for clinical diagnosis.

(b) The information contained in the reports required by subsection (a) shall be provided by the Department to local health departments for public health purposes.

"§ 130A-140. *Physicians and others to report venereal disease cases and positive laboratory tests.*—(a) The following persons shall report cases of venereal disease and positive laboratory tests for venereal disease to the local health director and they shall cooperate with the Department and local health departments in preventing the spread of venereal disease:

(1) Any physician responsible for diagnosis or treatment or other person responsible for treatment of a patient with venereal disease.

(2) An administrator of a hospital, dispensary or institution in which there is a patient or inmate with a venereal disease; and

(3) The director of a laboratory performing a positive test for venereal disease.

(b) The local health director shall report to the Department all cases and positive laboratory tests for venereal disease reported pursuant to subsection (a) within 24 hours of the receipt of the report.

"§ 130A-141. *Form and content of reports.*—The Commission is authorized to adopt rules prescribing the form and content of reports required by this Article, and establishing the manner of making the reports.

"§ 130A-142. *Immunity of persons who report.*—A person who makes a report pursuant to the provisions of this Article shall be immune from any civil or criminal liability that might otherwise be incurred or imposed.

"§ 130A-143. *Confidentiality of records.*—(a) The reports made to a local health director or the Department pursuant to the provisions of this Article shall be confidential and shall not be public records open to inspection. The Commission shall provide by rule for the use of the reports for medical research. The local health director and the Department may release statistical information based upon the reports.

(b) No employee or officer of any State or local agency shall make an unauthorized release of the information contained in reports made pursuant to the provisions of this Article.

"§ 130A-144. *Control measures.*—(a) A person who has a disease declared by the Commission to be reported, and any householder in whose family or home there is a person who has a reportable disease, shall comply with instructions given by an attending physician or, if there is no attending physician, by the local health director, as to proper control measures for the disease as established by the rules of the Commission. It shall be the duty of the attending physician or local health director to give the required instructions.

(b) The Commission shall adopt rules regarding proper control measures for the reportable diseases.

"§ 130A-145. *Local health director has quarantine and isolation authority.*—The local health director is empowered to exercise quarantine authority and isolation authority within the jurisdiction of the local health department.

"§ 130A-146. *Transportation of bodies of persons who have died of reportable diseases.*—No person shall transport in this State the remains of any person who has died of a disease declared by the Commission to be reported until the body has been encased in a manner as prescribed by rule by the Commission. Only persons who have complied with the rules of the Commission concerning the removal of dead bodies shall be issued a burial-transit permit.

"§ 130A-147. *Rules of the Commission.*—For the protection of the public health, the Commission is authorized to adopt rules for the detection, control and prevention of communicable diseases.

"§ 130A-148 to 130A-151: Reserved for future codification purposes.

"Part 2. Immunization.

"§ 130A-152. *Immunization required.*—(a) Every child present in this State shall be immunized against diphtheria, tetanus, whooping cough, poliomyelitis, red measles (rubeola) and rubella. In addition, every child present in this State shall be immunized against any other disease upon a determination by the Commission that the immunization is in the interest of the public health. Every parent, guardian, person in loco parentis and person or agency, whether governmental or private, with legal custody of a child shall have the responsibility to ensure that the child has received the required immunization at the age required by the Commission. If a child has not received the required immunizations by the specified age, the responsible person shall obtain the required immunization for the child as soon as possible after the lack of the required immunization is determined.

(b) A child who has been immunized for measles prior to attaining 12 months of age shall be required to obtain a second measles immunization after the child has attained 12 months of age in order to satisfy the requirement of subsection (a).

(c) The Commission shall adopt and the Department shall enforce rules concerning the implementation of the immunization program. The rules shall provide for:

(1) The child's age at administration of each vaccine;

(2) The number of doses of each vaccine;

(3) Exemptions from the immunization requirements where medical practice suggests that immunization would not be in the best health interests of a specific category of children;

(4) The procedures and practices for administering the vaccine; and

(5) Redistribution of vaccines provided to local health departments.

(d) Only vaccine preparations which meet the standards of the United States Food and Drug Administration or its successor in licensing vaccines and are approved for use by the Commission may be used.

"§ 130A-153. *Obtaining immunization; reporting by local health departments.*—(a) The required immunization may be obtained from a physician licensed to practice medicine or from a local health department. Local health departments shall administer the required immunizations at no cost to the patient. The Department shall provide the vaccines for use by the local health departments. A local health department may redistribute these vaccines only in accordance with the rules of the Commission.

(b) Local health departments shall file monthly immunization reports with the Department. The report shall be filed on forms prepared by the Department and shall state each patient's age and the number of doses of each type of vaccine administered.

"§ 130A-154. *Certificate of Immunization.*—A physician or local health department administering a required vaccine shall give a certificate of immunization to the person who presented the child for immunization. The certificate shall state the name of the child, the name of the child's parent, guardian, or person responsible for the child obtaining the required immunization, the address of the child and the parent, guardian or responsible person, the date of birth of the child, the sex of the child, the number of doses of the vaccine given, the date the doses were given, the name and address of the physician or local health department administering the required immunization and other relevant information required by the Commission.

"§ 130A-155. *Submission of certificate to day-care facility and school authorities; record maintenance; reporting.*—(a) No child shall attend a school (K-12), whether public, private or religious, or a day-care facility as defined in G.S. 110-86(3), unless a certificate of immunization indicating that the child has received the immunizations required by G.S. 130A-152 is presented to the school or facility. The parent, guardian, or responsible person must present a certificate of immunization on the child's first day of attendance to the principal of the school or operator of the facility, as defined in G.S. 110-86(7). If a certificate of immunization is not presented on the first day, the principal or operator shall present a notice of deficiency to the parent, guardian or responsible person. The parent, guardian or responsible person shall have 30 calendar days from the first day of attendance to obtain the required immunization for the child. If the administration of vaccine in a series of doses given at medically approved intervals requires a period in excess of 30 calendar days, additional days upon certification by a physician may be allowed to obtain the required immunization. Upon termination of 30 calendar days or the

extended period, the principal or operator shall not permit the child to attend the school or facility unless the required immunization has been obtained.

(b) The school or day-care facility shall maintain on file immunization records for all children attending the school or facility which contain the information required for a certificate of immunization as specified in G.S. 130A-154. These certificates shall be open to inspection by the Department and the local health department during normal business hours. When a child transfers to another school or facility, the school or facility which the child previously attended shall, upon request, send a copy of the child's immunization record at no charge to the school or facility to which the child has transferred.

(c) Within 60 calendar days after the commencement of a new school year, the school shall file an immunization report with the Department. The day-care facility shall file an immunization report annually with the Department. The report shall be filed on forms prepared by the Department and shall state the number of children attending the school or facility, the number of children who had not obtained the required immunization within 30 days of their first attendance, the number of children who received a medical exemption and the number of children who received a religious exemption.

(d) Any adult who attends school (K-12), whether public, private or religious, shall obtain the immunizations required in G.S. 130A-152 and shall present to the school a certificate in accordance with this section. The physician or local health department administering a required vaccine to the adult shall give a certificate of immunization to the person. The certificate shall state the person's name, address, date of birth and sex; the number of doses of the vaccine given; the date the doses were given; the name and addresses of the physician or local health department administering the required immunization; and other relevant information required by the Commission.

"§ 130A-156. *Medical0exemption.*—If a physician licensed to practice medicine in this State certifies that an immunization required by G.S. 130A-152 is or may be detrimental to a person's health, the person is not required to receive the specified immunization until the physician certifies that the immunization will not be detrimental to the person's health.

"§ 130A-157. *Religious* _____.—If the bona fide religious beliefs of an adult or the parent, guardian or person in loco parentis of a child are contrary to the immunization requirements contained in this Part, the adult or the child shall be exempt from the requirements. Upon submission of a written statement of the bona fide religious beliefs and opposition to the immunization requirements, the person may attend the school or facility without presenting a certificate of immunization.

"§ 130A-158 to 130A-159: Reserved for future codification purposes.

"Part 3. Venereal Disease.

"§ 130A-160. *Commission to adopt rules.*—For the protection of the public health, the Commission shall adopt rules for the purpose of preventing, controlling, treating and eradicating venereal disease.

"§ 130A-161. *Venereal disease definition.*—For the purposes of this Part, venereal disease includes syphilis, gonorrhea, chancroid, granuloma inguinale, lymphogranuloma venereum and any other sexually transmitted disease that the Commission determines is or may be controllable and for which the Commission requires reporting.

"§ 130A-162. *Venereal disease examination, treatment and investigation.*—The Secretary or the local health director shall require a person reasonably suspected of being infected with venereal disease to be examined immediately. The Secretary or the local health director may detain these persons until the results of the examination are known, and isolate any person infected with venereal disease when it is necessary to protect the public health. A person infected or reasonably suspected of being infected with venereal disease shall report for treatment to a physician licensed to practice medicine or to the local health department until the disease is cured. The local health department shall provide the examination and treatment at no cost to the patient. The Secretary or the local health director shall interview all persons infected or reasonably suspected of being infected with venereal disease and shall investigate the sources of infection and the spread of venereal disease.

"§ 130A-163. *Confidentiality of venereal disease information and0records.*—Except as necessary to enforce the provisions of this Part and its rules concerning the control and treatment of venereal disease, all personally identifiable information or records held by the Department, local health departments or licensed physicians relating to known or suspected cases of venereal disease shall be confidential and shall not be public records. However, all suspected cases of abused juveniles shall be reported in accordance with Article 44 of Chapter 7A of the General Statutes and information or records held by the Department, local health departments or licensed physicians shall be admissible in any judicial proceeding in which a juvenile's abuse or neglect is in issue or in any judicial proceeding resulting from a report submitted under Article 44 of Chapter 7A of the General Statutes if the material is disclosed *in camera*.

"§ 130A-164. *Certification of laboratories to perform serological tests for syphilis.*—For the protection of the public health, the Commission shall adopt rules establishing standards for the certification of laboratories to perform serological tests for syphilis required by G.S. 130A-165. The rules shall address, but not be limited to, proficiency testing, record maintenance and adequate staffing.

"§ 130A-165. *Pregnant women to have test for syphilis.*—Every pregnant woman shall have a blood sample taken during pregnancy and submitted to a laboratory certified by the Department for performing serological or other tests for syphilis. The physician attending a pregnant woman shall ensure that the required blood sample is taken and submitted.

"§ 130A-166. *Birth and fetal death certificates to contain information as to tests.*—A person required by G.S. 130A-101 and G.S. 130A-114 to report a birth or a fetal death shall state on the birth or fetal death certificate whether the mother of the child was given a blood test for syphilis during pregnancy or at delivery.

"§ 130A-167 to 130A-170: Reserved for future codification purposes.

"Part 4. Inflammation of Eyes of Newborn.

"§ 130A-171. *Inflammation of eyes of newborn defined.*—For the purposes of this Part, 'inflammation of the eyes of the newborn' (ophthalmia neonatorum) means any swelling or unusual redness in either or both eyes occurring in a newborn infant within three weeks after birth.

"§ 130A-172. *Inflammation of eyes of newborn to be reported.*—A person attending or assisting in any way a newborn infant or its mother at childbirth or

within three weeks after birth shall report immediately to the local health director of the county in which the newborn resides the name of any newborn with inflammation of the eyes. The local health director shall ensure that the infant receives appropriate treatment by a physician licensed to practice medicine.

"§ 130A-173. *Eyes of all newborn infants to be treated; records.*—A person in attendance at a childbirth shall immediately instill or have instilled in the eyes of the newborn a medication approved by the Commission for prevention of infection of the eyes of the newborn. A person in attendance at a childbirth or an administrator of the institution in which a birth occurs shall prepare records concerning treatment or inflammation of the eyes of the newborn as the Department shall direct.

"§ 130A-174. *Duties of the Commission and local health directors for the treatment of the newborn.*—The Commission shall adopt rules for the treatment of the eyes of the newborn. A local health director shall investigate reported cases of inflammation, all contacts necessary to trace the source of the infection and other suspected cases. A local health director shall report all confirmed cases of inflammation of eyes of the newborn and the results of investigations as directed by the Department and shall enforce the rules of the Commission.

"§ 130A-175 to 130A-176: Reserved for future codification purposes.

"Part 5. Tuberculosis.

"§ 130A-177. *Department to establish program.*—(a) The Department shall establish and administer a program for the detection and prevention of tuberculosis and the treatment of persons with tuberculosis. The program may include:

(1) Contracts with medical facilities to provide for the care and treatment of tuberculosis patients who meet the eligibility requirements established by the Commission;

(2) Contracts with medical facilities for the purpose of renovating facilities to meet airflow requirements necessary for the treatment of tuberculosis patients;

(3) Contracts with local health departments for the purpose of improving the treatment and care of tuberculosis patients, suspects and contacts;

(4) Provision of anti-tuberculosis drugs, skin test antigens and other pharmaceutical agents to local health departments; and

(5) Provision of clinician, nursing and radiologic technology consultation services to local health departments, hospitals and physicians for the purpose of improving the detection and prevention of tuberculosis and the treatment of persons with tuberculosis.

(6) Operation of medical facilities for the diagnosis and treatment of tuberculosis.

(b) The Commission shall adopt rules necessary to implement the program.

"§ 130A-178. *Examination, treatment and investigation.*—(a) A local health director shall require a person reasonably suspected of being infected with tuberculosis to be examined immediately. The local health director may detain the person until the results of the examination are known, and isolate any person who is reasonably suspected of being infected with tuberculosis in a communicable stage when it is necessary to protect the public health. Persons with tuberculosis shall report for treatment to a physician licensed to practice

medicine or to the local health department and shall continue treatment until the disease is cured. The local health director shall also instruct the person concerning the precautions necessary to protect other persons from becoming infected, assist the person in obtaining the required treatment and monitor progress. The local health department shall provide the examination and treatment at no cost to the patient.

(b) A local health director shall interview persons infected or reasonably suspected of being infected with tuberculosis in order to identify other persons likely to be infected.

(c) A person found to have tuberculosis shall follow the instructions of the local health director, shall obtain the required treatment and shall minimize the risk of infecting others with tuberculosis.

"§ 130A-179. *Authority of local health directors to examine medical records.*—(a) Physicians and persons in charge of medical facilities shall, upon request, permit a local health director to examine, review and obtain a copy of medical records in their possession or under their control which pertain to the diagnosis or treatment of a person infected or reasonably suspected of being infected with tuberculosis.

(b) A physician or a person in charge of a medical facility who permits examination, review or copying of medical records pursuant to subsection (a) shall be immune from any civil or criminal liability that otherwise might be incurred or imposed.

(c) The information provided to a local health director pursuant to subsection (a) shall be confidential and shall not be public records open to inspection.

"§ 130A-180 to 130A-183: Reserved for future codification purposes.

"Part 6. Rabies.

"§ 130A-184. *Definitions.*—The following definitions shall apply throughout this Part:

(1) 'Animal Control Officer' means a city or county employee designated as dog warden, animal control officer, animal control official or other designations that may be used whose responsibility includes animal control.

(2) 'Cat' means a domestic feline.

(3) 'Certified rabies vaccinator' means a person appointed and certified to administer rabies vaccine to animals in accordance with this Part.

(4) 'Dog' means a domestic canine.

(5) 'Rabies vaccine' means an animal rabies vaccine licensed by the United States Department of Agriculture and approved for use in this State by the Commission.

(6) 'State Public Health Veterinarian' means a person appointed by the Secretary to direct the State public health veterinary program.

(7) 'Vaccination' means the administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator.

"§ 130A-185. *Vaccination of all dogs and cats.*—(a) The owner of every dog and cat over four months of age shall have the animal vaccinated against rabies. The time or times of vaccination shall be established by the Commission. Rabies vaccine shall be administered only by a licensed veterinarian or by a certified rabies vaccinator.

(b) Only animal rabies vaccine licensed by the United States Department of Agriculture and approved by the Commission shall be used on animals in this State.

"§ 130A-186. *Appointment and certification of certified rabies vaccinator.*—In those counties where licensed veterinarians are not available to participate in all scheduled county rabies control clinics, the local health director shall appoint one or more persons for the purpose of administering rabies vaccine to animals in that county. Whether or not licensed veterinarians are available, the local health director may appoint one or more persons for the purpose of administering rabies vaccine to animals in their county and these persons will make themselves available to participate in the county rabies control program. The State Public Health Veterinarian shall provide at least four hours of training to those persons appointed by the local health director to administer rabies vaccine. Upon satisfactory completion of the training, the State Public Health Veterinarian shall certify in writing that the appointee has demonstrated a knowledge and procedure acceptable for the administration of rabies vaccine to animals. A certified rabies vaccinator shall be authorized to administer rabies vaccine to animals in the county until the appointment by the local health director has been terminated.

"§ 130A-187. *County rabies vaccination clinics.*—The local health director shall organize or assist other county departments to organize quarterly countywide rabies vaccination clinics for the purpose of vaccinating dogs and cats. Public notice of the time and place of rabies vaccination clinics shall be published in a newspaper having general circulation within the area.

"§ 130A-188. *Fee for vaccination at county rabies vaccination clinics.*—The county board of commissioners is authorized to establish a fee to be charged at the county rabies vaccination clinics. The fee shall include an administrative charge not to exceed four dollars ($4.00) per vaccination, and a charge for the actual cost of the vaccine, the vaccination certificate, and the rabies vaccination tag.

"§ 130A-189. *Rabies vaccination certificates.*—A licensed veterinarian or a certified rabies vaccinator who administers rabies vaccine to a dog or cat shall complete a three-copy rabies vaccination certificate. The original rabies vaccination certificate shall be given to the owner of each dog or cat that receives rabies vaccine. One copy of the rabies vaccination certificate shall be retained by the licensed veterinarian or the certified rabies vaccinator. The other copy shall be given to the county agency responsible for animal control.

"§ 130A-190. *Rabies vaccination tags.*—A licensed veterinarian or a certified rabies vaccinator who administers rabies vaccine to a dog or cat shall issue a rabies vaccination tag to the owner of the animal. The rabies vaccination tag shall show the year issued, a vaccination number, the words 'North Carolina' or the initials 'N.C.' and the words 'rabies vaccine'. Dogs and cats shall wear rabies vaccination tags at all times. However, cats may be exempted from wearing the tags by local ordinance. Rabies vaccination tags, links and rivets may be obtained from the Department. The Secretary is authorized to establish by rule a fee for the rabies tags, links and rivets. The fee shall not exceed the actual cost of the rabies tags, links and rivets, plus transportation costs.

"§ 130A-191: Reserved for future codification purposes.

"§ 130A-192. *Dogs and cats not wearing required rabies vaccination tags.*—The Animal Control Officer shall canvass the county to determine if there are any dogs or cats not wearing the required rabies vaccination tag. If a dog or cat is found not wearing the required tag, the Animal Control Officer shall check to see if the owner's identification can be found on the animal. If the animal is

wearing an owner identification tag, or if the Animal Control Officer otherwise knows who the owner is, the Animal Control Officer shall notify the owner in writing to have the animal vaccinated against rabies and to produce the required rabies vaccination certificate to the Animal Control Officer within three days of the notification. If the animal is not wearing an owner identification tag and the Animal Control Officer does not otherwise know who the owner is, the Animal Control Officer may impound the animal. The duration of the impoundment of these animals shall be established by the county board of commissioners, but the duration shall not be less than 72 hours. During the impoundment period, the Animal Control Officer shall make a reasonable effort to locate the owner of the animal. If the animal is not reclaimed by its owner during the impoundment period, the animal shall be disposed of in one of the following manners: returned to the owner; adopted as a pet by a new owner; sold to institutions within this State registered by the United States Department of Agriculture pursuant to the Federal Animal Welfare Act, as amended; or put to death by a procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or of the American Humane Association. The Animal Control Officer shall maintain a record of all animals impounded under this section which shall include the date of impoundment, the length of impoundment, the method of disposal of the animal and the name of the person or institution to whom any animal has been released.

"§ 130A-193. *Vaccination and confinement of dogs and cats brought into this State.*—(a) A dog or cat brought into this State shall immediately be securely confined and shall be vaccinated against rabies within one week after entry. The animal shall remain confined for two weeks after vaccination.

(b) The provisions of subsection (a) shall not apply to:

(1) A dog or cat brought into this State for exhibition purposes if the animal is confined and not permitted to run at large; or

(2) A dog or cat brought into this State accompanied by a certificate issued by a licensed veterinarian showing that the dog or cat is apparently free from and has not been exposed to rabies and that the dog or cat has received rabies vaccine within the past year.

"§ 130A-194. *Quarantine of districts infected with rabies.*—An area may be declared under quarantine against rabies by the local health director when the disease exists to the extent that the lives of persons are endangered. When quarantine is declared, each dog and cat in the area shall be confined on the premises of the owner or in a veterinary hospital. However, dogs or cats on a leash or under the control and in the sight of a responsible adult may be permitted to leave the premises of the owner or the veterinary hospital.

"§ 130A-195. *Destroying stray dogs and cats in quarantine districts.*—When quarantine has been declared and dogs and cats continue to run uncontrolled in the area, any peace officer or Animal Control Officer shall have the right, after reasonable effort has been made to apprehend the animals, to destroy the uncontrolled dogs and cats and properly dispose of their bodies.

"§ 130A-196. *Confinement of all biting dogs and cats: notice to local health director; reports by physicians.*—When a person has been bitten by a dog or cat, the person or parent, guardian or person standing *in loco parentis* of the person, and the person owning the animal or in control or possession of the animal shall notify the local health director immediately and give the name and address of

the person bitten and the owner of the animal. All dogs and cats that bite a person shall be immediately confined for 10 days in a place designated by the local health director. If the owner or the person who controls or possesses a dog or cat that has bitten a person refuses to confine the animal as required by this section, the local health director may order seizure of the animal and its confinement for 10 days at the expense of the owner. A physician who attends a person bitten by an animal known to be a potential carrier of rabies shall report within 24-hours to the local health director the name, age and sex of that person.

"§ 130A-197. *Infected dogs and cats to be destroyed; protection of vaccinated dogs and cats.*—A dog or cat bitten by a proven rabid animal or animal suspected of having rabies that is not available for laboratory diagnosis shall be destroyed immediately by its owner, the county Animal Control Officer or a peace officer unless the dog or cat has been vaccinated against rabies in accordance with this Part and the rules of the Commission more than three weeks prior to being bitten, and is given a booster dose of rabies vaccine within three days of the bite.

"§ 130A-198. *Confinement.*—A person who owns or has possession of an animal which is suspected of having rabies shall immediately notify the local health director or county Animal Control Officer and shall securely confine the animal in a place designated by the local health director. Dogs and cats shall be confined for a period of 10 days. Other animals may be destroyed at the discretion of the State Public Health Veterinarian.

"§ 130A-199. *Rabid animals to be destroyed: heads to be sent to State Laboratory of Public Health.*—An animal diagnosed as having rabies by a licensed veterinarian shall be destroyed and its head sent to the State Laboratory of Public Health. The heads of all dogs and cats that die during the 10-day confinement period required by G.S. 130A-196, shall be immediately sent to the State Laboratory of Public Health for rabies diagnosis.

"§ 130A-200. *Confinement or leashing of vicious animals.*—A local health director may declare an animal to be vicious and a menace to the public health when the animal has attacked a person causing bodily harm without being teased, molested, provoked, beaten, tortured or otherwise harmed. When an animal has been declared to be vicious and a menace to the public health, the local health director shall order the animal to be confined to its owner's property. However, the animal may be permitted to leave its owner's property when accompanied by a responsible adult and restrained on a leash.

"§ 130A-201 to 130A-204: Reserved for future codification purposes.

"ARTICLE 7.

"Chronic Disease.

"Part 1. Cancer.

"§ 130A-205. *Administration of program; rules.*—(a) The Department shall establish and administer a program for the prevention and detection of cancer and the care and treatment of persons with cancer.

(b) The Commission shall adopt rules necessary to implement the program.

"§ 130A-206. *Financial aid for diagnosis and treatment.*—The Department shall provide financial aid for diagnosis and treatment of cancer to indigent citizens of this State having or suspected of having cancer. The Department may make facilities for diagnosis and treatment of cancer available to all citizens. Reimbursement shall only be provided for diagnosis and treatment

performed in a medical facility which meets the minimum requirements for cancer control established by the Commission. The Commission shall adopt rules specifying the terms and conditions by which the patients may receive financial aid.

"§ 130A-207. *Cancer clinics.*—The Department is authorized to provide financial aid to sponsored cancer clinics in medical facilities and local health departments. The Commission shall adopt rules to establish minimum standards for the staffing, equipment and operation of the clinics sponsored by the Department.

"§ 130A-208. *Central cancer registry.*—A central cancer registry is established within the Department. The central cancer registry shall compile, tabulate and preserve statistical, clinical and other reports and records relating to the incidence, treatment and cure of cancer received pursuant to this Part. The central cancer registry shall provide assistance and consultation for public health work.

"§ 130A-209. *Incidence reporting of cancer.*—A physician shall report to the central cancer registry each diagnosis of cancer in any person for whom the pof diagnosis. Diagnostic, demographic and other information as prescribed by the rules of the Commission shall be included in the report.

tablish minimum

— *vaccinated*

■"§ 130A-210. *Medical facilities may report.*—A medical facility may submit to the central cancer registry clinical, statistical and other records relating to the treatment and cure of cancer.

"§ 130A-211. *Immunity of persons who report cancer.*—A person who makes a report pursuant to G.S. 130A-209 or G.S. 130A-210 to the central cancer registry shall be immune from any civil or criminal liability that might otherwise be incurred or imposed.

"§ 130A-212. *Confidentiality of records.*—The clinical records or reports of individual patients shall be confidential and shall not be public records open to inspection. The Commission shall provide by rule for the use of the records and reports for medical research.

"§ 130A-213. *Cancer Committee of the North Carolina Medical Society.*—In implementing this Part, the Department shall consult with the Cancer Committee of the North Carolina Medical Society. The Committee shall consist of at least one physician from each congressional district. Any proposed rules or reports affecting the operation of the cancer control program shall be reviewed by the Committee for comment prior to adoption.

"§ 130A-214. *Duties of Department.*—The Department shall study the entire problem of cancer including its causes, including environmental factors; prevention; detection; diagnosis and treatment. The Department shall provide or assure the availability of cancer educational resources to health professionals, interested private or public organizations and the public.

"§ 130A-215. *Reports.*—The Secretary shall make a report to the Governor and the General Assembly specifying the activities of the cancer control program and its budget. The report shall be made to the Governor annually and to the General Assembly biennially.

"§ 130A-216 to 130A-219: Reserved for future codification purposes.

"Part 2. Chronic Renal Disease.

"§ 130A-220. *Department to establish program.*—(a) The Department shall establish and administer a program for the detection and prevention of chronic

renal disease and the care and treatment of persons with chronic renal disease. The program may include:

(1) Development of services for the prevention of chronic renal disease;

(2) Development and expansion of services for the care and treatment of persons with chronic renal disease, including techniques which will have a lifesaving effect in the care and treatment of those persons;

(3) Provision of financial assistance on the basis of need for diagnosis and treatment of persons with chronic renal disease;

(4) Equipping dialysis and transplantation centers; and

(5) Development of an education program for physicians, hospitals, local health departments and the public concerning chronic renal disease.

(b) The Commission is authorized to adopt rules necessary to implement the program.

"Part 3. Glaucoma and Diabetes.

"§ 130A-221. *Department to establish program.*—(a) The Department shall establish and administer a program for the detection and prevention of glaucoma and diabetes and the care and treatment of persons with glaucoma and diabetes. The program may include:

(1) Education of patients, health care personnel and the public;

(2) Development and expansion of services to persons with glaucoma and diabetes; and

(3) Provision of supplies, equipment and medication for detection and control of glaucoma and diabetes.

(b) The Commission is authorized to adopt rules necessary to implement the program.

"Part 4. Arthritis.

"§ 130A-222. *Department to establish program.*—(a) The Department shall establish and administer a program for the detection and prevention of arthritis and the care and treatment of persons with arthritis. The purpose of the program shall be:

(1) To improve professional education for physicians and allied health professionals including nurses, physical and occupational therapists and social workers;

(2) To conduct programs of public education and information;

(3) To provide detection and treatment programs and services for the at-risk population of this State;

(4) To utilize the services available at the State medical schools, existing arthritis rehabilitation centers and existing local arthritis clinics and agencies;

(5) To develop an arthritis outreach clinical system;

(6) To develop and train personnel at clinical facilities for diagnostic work-up, laboratory analysis and consultations with primary physicians regarding patient management; and

(7) To develop the epidemiologic studies to determine frequency and distribution of the disease.

(b) The Commission is authorized to adopt rules necessary to implement the program.

"Part 5. Adult Health.

"§ 130A-223. *Department to establish program.*—(a) The Department shall establish and administer a program for the prevention of diseases, disabilities

and accidents that contribute significantly to mortality and morbidity among adults. The program may also provide for the care and treatment of persons with these diseases or disabilities.

(b) The Commission is authorized to adopt rules necessary to implement the program.

"§ 130A-224 to 130A-226: Reserved for future codification purposes.

"ARTICLE 8.

"Sanitation.

"Part 1. General.

"§ 130A-227. *Department to establish program.*—For the purpose of promoting a safe and healthful environment and developing corrective measures required to minimize environmental health hazards, the Department shall establish a sanitation program. The Department shall employ environmental engineers, sanitarians, soil scientists and other scientific personnel necessary to carry out the sanitation provisions of this Chapter and the rules of the Commission.

"Part 2. Meat Markets.

"§ 130A-228. *Regulation of places selling meat.*—For the protection of the public health, the Commission shall adopt rules governing the sanitation of markets where meat food products (as defined in G.S. 106-549.15(14)) or poultry products (as defined in G.S. 106-549.51 (26)) are prepared and sold. The rules shall also provide a system of grading the markets. A market shall satisfy the minimum sanitation requirements prescribed by the rules in order to operate. The rules shall include, but not be limited to, the establishment of sanitation requirements concerning the preparation and storage of all food at the markets; construction and cleanliness of the building, equipment and utensils; water supply; toilet and handwashing facilities; sewage collection, treatment and disposal facilities; disposal of waste; lighting and ventilation; vermin control; and health of employees.

"§ 130A-229. *Application of Part.*—The provisions of this Part shall not apply to markets where meat food products or poultry products are prepared and sold and which are under continuous inspection by the North Carolina Department of Agriculture or the United States Department of Agriculture.

"Part 3. Sanitation of Scallops, Shellfish and Crustacea.

"§ 130A-230. *Commission to adopt rules; enforcement of rules.*—For the protection of the public health, the Commission shall adopt rules establishing sanitation requirements for the harvesting, processing and handling of scallops, shellfish and crustacea of in-State origin. The rules of the Commission may also regulate scallops, shellfish and crustacea shipped into North Carolina. The Department is authorized to enforce the rules and may issue and revoke permits according to the rules.

"§ 130A-231. *Agreements between Department of Human Resources and Department of Natural Resources and Community Development.*—Nothing in this Part is intended to limit the authority of the Department of Natural Resources and Community Development to regulate aspects of the harvesting, processing and handling of scallops, shellfish and crustacea relating to conservation of the fisheries resources of the State. The Department of Human Resources and the Department of Natural Resources and Community Development are authorized to enter into agreements respecting the duties and

responsibilities of each agency as to the harvesting, processing and handling of scallops, shellfish and crustacea.

"§ 130A-232 to 130A-234: Reserved for future codification purposes.

"Part 4. Institutions and Schools.

"§ 130A-235. *Regulation of sanitation in institutions.*—For the protection of the public health, the Commission shall adopt rules to establish sanitation requirements for hospitals, psychiatric hospitals, nursing homes, domiciliary homes, residential care facilities, educational institutions and other facilities where patients, residents or students are provided room or board. This section shall not apply to State institutions and facilities subject to inspection under G.S. 130A-5(10).

"§ 130A-236. *Regulation of sanitation in schools.*—For the protection of the public health, the Commission shall adopt rules to establish sanitation requirements for public, private and religious schools. The rules shall address, but not be limited to, the cleanliness of floors, walls, ceilings, storage spaces and other areas; adequacy of lighting, ventilation, water supply, toilet and lavatory facilities; sewage collection, treatment and disposal facilities; and solid waste disposal. The Department shall inspect schools at least annually. The Department shall submit written inspection reports of public schools to the Department of Public Education and written inspection reports of private and religious schools to the Department of Administration.

"§ 130A-237. *Inspections, reports, corrective action.*—A principal or administrative head of a public, private or religious school shall inspect the facility every month to monitor the level of sanitation and to assure compliance with the sanitation rules. A principal or administrative head shall immediately take action to correct conditions which do not satisfy the sanitation rules. Sample inspection report forms may be obtained from the Department upon request.

"Part 5. Migrant Housing.

"§ 130A-238. *Definitions.*—The following definitions shall apply throughout this Part:

(1) 'Crew leader' means the individual who negotiates or manages the contract for employment of migrants or is recognized by the migrants as the leader.

(2) 'Migrant' means an agricultural worker, including a person who works in food processing operations, and a worker's dependents who travel and stay overnight in response to the demand for seasonal agricultural labor.

(3) 'Migrant housing' means one or more buildings or structures, tents, trailers or vehicles, together with the appurtenant land, that are established, operated or used as living quarters for 13 or more migrants.

"§ 130A-239. *Commission to regulate sanitary conditions of migrant housing.*—For the protection of the public health, the Commission shall adopt rules concerning the sanitation and safety of migrant housing. The rules shall include, but not be limited to:

(1) The issuance of a permit by the Department before migrant housing may be occupied or caused to be occupied;

(2) The establishment of an inspection system for migrant housing. No less than one inspection per year during occupancy of the migrant housing shall be required;

(3) The establishment of requirements for the sanitation and safety of migrant housing including, but not limited to, the site; structures; water supply; sewage collection, treatment and disposal facilities; toilet facilities; laundry facilities; handwashing and bathing facilities; lighting; solid waste disposal facilities; and kitchen and dining facilities. The rules shall also provide for insect and rodent control; provision of first aid; reporting of communicable disease and any other items as are necessary in the interest of public health.

"§ 130A-240. *Permit for migrant housing; posting.*—No person shall cause migrant housing to be occupied unless a valid permit has been obtained from the Department and is posted at the site of the migrant housing.

"§ 130A-241. *Inspection and reports.*—The Department is authorized to enter and inspect any migrant housing which is, will be or has been occupied. Every person responsible for the management or control of migrant housing shall render all assistance necessary to enable the Department to make a full, thorough and complete inspection of the housing. The Department shall leave a copy of the inspection report with the responsible person.

"§ 130A-242. *Application for permit; issuance; duration; assignability; denial or revocation.*—A written application for a permit for migrant housing shall be made at the local health department having jurisdiction over the area in which the proposed housing is to be located. The permits shall be issued without charge. The permits shall be valid for a period of one year, unless revoked for failure to comply with this Part or the rules of the Commission. The permits shall not be transferable.

"§ 130A-243. *Responsibility for sanitary standards and maintenance.*—The person causing migrant housing to be occupied, including the owner, operator and crew leader, shall be responsible for complying with the provisions of this Part and the rules of the Commission. After the owner has been given reasonable notice of damage done or occurring while the house is occupied by migrants, the owner shall be responsible for the damage and shall have reasonable time to repair the damage. The owner may charge the occupants and the crew leader for repairs which were necessary due to damage caused by the occupants.

"§ 130A-244. *Duties of occupants of migrant housing.*—An occupant of migrant housing shall use the sanitary facilities and maintain them in a sanitary manner. Occupants shall be responsible for damages to the housing caused by them.

"§ 130A-245 to 130A-246: Reserved for future codification purposes.

"Part 6. Regulation of Food and Lodging Facilities.

"§ 130A-247. *Definitions.*—The following definitions shall apply throughout this Part:

(1) 'Permanent house guest' means a person who receives room or board for periods of a week or longer. The term includes visitors of the permanent house guest.

(2) 'Private club' means an establishment which maintains selective members, is operated by the membership and is not profit oriented.

(3) 'Regular boarder' means a person who receives food for periods of a week or longer.

(4) 'Where food is prepared or served' means a place where food is cooked, put together, portioned, set out or handed out in unpackaged portions for human consumption.

(5) 'Where drink is prepared or served' means a place where drink is put together, portioned, set out or handed out in unpackaged portions using containers which are reused on the premises rather than single-service containers.

"§ 130A-248. *Regulation of restaurants and hotels.*—(a) For the protection of the public health, the Commission shall adopt rules governing the sanitation of restaurants, hotels, motels, tourist homes, school cafeterias, summer camps, food or drink stands, sandwich manufacturing operations, mobile food units, pushcarts and other facilities where food or drink is prepared or served for pay or where lodging is provided for pay. The rules shall address, but not be limited to, the establishment of sanitation requirements for cleanliness of floors, walls, ceilings, storage spaces, utensils and other areas and items; adequacy of lighting, ventilation, water supply, sewage collection, treatment and disposal facilities, lavatory facilities, food protection facilities and waste disposal; the cleaning and bactericidal treatment of eating and drinking utensils and other food-contact surfaces; methods of food preparation, transportation, catering, storage and serving; health of employees; and animal and vermin control. The rules shall contain a system for grading facilities, such as Grade A, Grade B and Grade C.

(b) No facility shall commence or continue operation that does not have a permit issued by the Department. The permit shall be issued to the owner or operator of the facility and shall not be transferable. A permit shall be issued only when the facility satisfies all of the requirements of the rules. A permit shall be revoked for failure of the facility to maintain a minimum grade of C, and a permit may be revoked for failure to comply with the other provisions of the rules where an imminent health hazard may exist.

"§ 130A-249. *Inspections; report and grade card.*—The Secretary may enter any facility where food or drink is prepared or served for pay or where lodging is provided for pay for the purpose of making inspections. The person responsible for the management or control of a facility shall permit the Secretary to inspect every part of the facility and shall render all aid and assistance necessary for the inspection. The Secretary shall leave a copy of the inspection form and a card showing the grade of the facility with the responsible person. The Secretary shall post the grade card in a conspicuous place as determined by the Secretary where it may be readily observed by the public upon entering the facility. The grade card shall not be removed by anyone, except by or upon the instruction of the Secretary.

"§ 130A-250. *Exemptions.*—This Part shall not apply to: (1) facilities which provide food or lodging to regular boarders or permanent house guests only; (2) private clubs; and (3) occasional fund-raising events conducted by the same person no more frequently than two consecutive days every three months. A food or drink stand operated for two weeks or less shall comply with the rules but shall not be subject to grading. A mobile food unit or pushcart shall comply with the rules and shall be operated in conjunction with a permitted restaurant but shall not be subject to grading.

"Part 7. Mass Gatherings.

"§ 130A-251. *Legislative intent and purpose.*—The intent and purpose of this Part is to provide for the protection of the public health, safety and welfare of those persons in attendance at mass gatherings and of those persons who reside near or are located in proximity to the sites of mass gatherings or are directly affected by them.

"§ 130A-252. *Definition of mass gathering.*—For the purposes of this Part, 'mass gathering' means a congregation or assembly of more than 5,000 people in an open space or open air for a period of more than 24 hours. A mass gathering shall include all congregations and assemblies organized or held for any purpose, but shall not include assemblies in permanent buildings or permanent structures designed or intended for use by a large number of people. To determine whether a congregation or assembly extends for more than 24 hours, the period shall begin when the people expected to attend are first permitted on the land where the congregation or assembly will be held and shall end when the people in attendance are expected to depart. To determine whether a congregation or assembly shall consist of more than 5,000 people, the number reasonably expected to attend, as determined from the promotion, advertisement and preparation for the congregation or assembly and from the attendance at prior congregations or assemblies of the same type, shall be considered.

"§ 130A-253. *Permit required; information report; revocation of permit.*—(a) No person shall organize, sponsor or hold any mass gathering unless a permit has been issued to the person by the Secretary under the provisions of this Part. A permit shall be required for each mass gathering and is not transferable.

(b) A permit may be revoked by the Secretary at any time if the Secretary finds that the mass gathering is being or has been maintained or operated in violation of this Part. A permit may be revoked upon the request of the permittee or upon abandonment of the operation. A permit will otherwise expire upon satisfactory completion of the post-gathering cleanup following the close of the mass gathering.

(c) The Secretary, upon information that a congregation or assembly of people which may constitute a mass gathering is being organized or promoted, may direct the organizer or promoter to submit within five calendar days an information report to the Department. The report shall contain the information required for an application for permit under G.S. 130A-254(b) and other information concerning the promotion, advertisement and preparation for the congregation or assembly and prior congregations or assemblies, as the Secretary deems necessary. The Secretary shall consider all available information including any report received and shall determine if the proposed congregation or assembly is a mass gathering. If the Secretary determines that a proposed congregation or assembly is a mass gathering, the Secretary shall notify the organizer or promoter to submit an application for permit at least 30 days prior to the commencement of the mass gathering.

"§ 130A-254. *Application for permit.*—(a) Application for a permit for a mass gathering shall be made to the Secretary on a form and in a manner prescribed by the Secretary. The application shall be filed with the Secretary at least 30 days prior to the commencement of the mass gathering. A fee as prescribed by the Secretary, not to exceed one hundred dollars ($100.00), shall accompany the application.

(b) The application shall contain the following information: identification of the applicant; identification of any other person or persons responsible for organizing, sponsoring or holding the mass gathering; the location of the proposed mass gathering; the estimated maximum number of persons reasonably expected to be in attendance at any time; the date or dates and the

hours during which the mass gathering is to be conducted; and a statement as to the total time period involved.

(c) The application shall be accompanied by an outline map of the area to be used, to approximate scale, showing the location of all proposed and existing privies or toilets; lavatory and bathing facilities; all water supply sources including lakes, ponds, streams, wells and storage tanks; all areas of assemblage; all camping areas; all food service areas; all garbage and refuse storage and disposal areas; all entrances and exits to public highways; and emergency ingress and egress roads.

(d) The application shall be accompanied by additional plans, reports and information required by the Secretary as necessary to carry out the provisions of this Part.

(e) A charge shall be levied by the Secretary to cover the cost of additional services, including police, fire and medical services, provided by the State or units of local government on account of the mass gathering. The Secretary shall reimburse the State or the units of local government for the additional services upon receipt of payment.

"§ 130A-255. *Provisional permit; performance bond; liability insurance.*—(a) Within 15 days after the receipt of the application, the Secretary shall review the application and inspect the proposed site for the mass gathering. If it is likely that the requirements of this Part and the rules of the Commission can be met by the applicant, a provisional permit shall be issued.

(b) The Secretary shall require the permittee within five days after issuance of the provisional permit to file with the Secretary a performance bond or other surety to be executed to the State in the amount of five thousand dollars ($5,000) for up to 10,000 persons and an additional one thousand dollars ($1,000) for each additional 5,000 persons or fraction reasonably estimated to attend the mass gathering. The bond shall be conditioned on full compliance with this Part and the rules of the Commission and shall be forfeitable upon noncompliance and a showing by the Secretary of injury, damage or other loss to the State or local governmental agencies caused by the noncompliance.

(c) The permittee shall in addition file satisfactory evidence of public liability and property damage insurance in an amount determined by the Secretary to be reasonable, not to exceed one million dollars ($1,000,000) in amount, in relation to the risks and hazards involved in the proposed mass gathering.

"§ 130A-256. *Issuance of permit; revocation; forfeiture of bond; cancellation.*—(a) If, upon inspection by the Secretary five days prior to the starting date of the mass gathering, or earlier upon request of the permittee, the required facilities are found to be in place, satisfactory arrangements are found to have been made for required services, the charge for additional services levied in accordance with G.S. 130A-254(e) has been paid and other applicable provisions of this Part and the rules of the Commission are found to have been met, the Secretary shall issue a permit for the mass gathering. If, upon inspection, the facilities, arrangements or other provisions are not satisfactory, the provisional permit shall be revoked and no permit shall be issued.

(b) Upon revocation of either the provisional permit or the permit, the permittee shall immediately announce cancellation of the mass gathering in as effective a manner as is reasonably possible including, but not limited to, the use or whatever methods were used for advertising or promoting the mass gathering.

(c) If the provisional permit or the permit is revoked prior to or during the mass gathering, the Secretary may order the permittee to install facilities and make arrangements necessary to accommodate persons who may nevertheless attend or be present at the mass gathering despite its cancellation and to restore the site to a safe and sanitary condition. In the event the permittee fails to comply with the order of the Secretary, the Secretary may immediately proceed to install facilities and make other arrangements and provisions for cleanup as may be minimally required in the interest of public health and safety, utilizing any State and local funds and resources as may be available.

(d) If the Secretary installs facilities or makes arrangements or provisions for cleanup pursuant to subsection (c), the Secretary may apply to a court of competent jurisdiction prior to or within 60 days after the action to order forfeiture of the permittee's performance bond or surety for violation of this Part or the rules of the Commission. The court may order that the proceeds shall be applied to the extent necessary to reimburse State and local governmental agencies for expenditures made pursuant to the action taken by the Secretary upon the permittee's failure to comply with the order. Any excess proceeds shall be returned to the insurer of the bond or to the surety after deducting court costs.

"§ 130A-257. *Rules of the Commission.*—For the protection of the public health, safety and welfare of those attending mass gatherings and of other persons who may be affected by mass gatherings, the Commission shall adopt rules to carry out the provisions of this Part and to establish requirements for the provision of facilities and services at mass gatherings. The rules shall include, but not be limited to, the establishment of requirements as follows:

(1) General requirements relating to minimum size of activity area including camping and parking space, distance of activity area from dwellings, distance from public water supplies and watersheds and an adequate command post for use by personnel of health, law enforcement and other governmental agencies;

(2) Adequate ingress and egress roads, parking facilities and entrances and exits to public highways;

(3) Plans for limiting attendance and crowd control, dust control and rapid emergency evacuation;

(4) Medical care, including facilities, services and personnel;

(5) Sanitary water supply, source and distribution; toilet facilities; sewage disposal; solid waste collection and disposal; food dispensing; insect and rodent control; and post-gathering cleanup; and

(6) Noise level at perimeter; lighting and signs.

"§ 130A-258. *Local ordinances not abrogated.*—Nothing in this Part shall be construed to limit the authority of units of local government to adopt ordinances regulating, but not prohibiting, congregations and assemblies not covered by this Part.

"§ 130A-259 to 130A-260: Reserved for future codification purposes.

"Part 8. Bedding.

"§ 130A-261. *Definitions.*—The following definitions shall apply throughout this Part:

(1) 'Bedding' means any mattress, upholstered spring, sleeping bag, pad, comforter, cushion, pillow and any other item used principally for sleeping. This definition includes only those items which have a thickness of more than one inch. This definition also includes dual purpose furniture such as studio

couches and sofa beds. The term 'mattress' does not include water bed liners, bladders or cylinders but does include padding or cushioning material which has a thickness of more than one inch.

(2) 'Itinerant vendor' means a person who sells bedding from a movable conveyance.

(3) 'Manufacture' means the making of bedding out of new materials.

(4) 'New material' means any material or article that has not been used for any other purpose and by-products of industry that have not been in human use.

(5) 'Previously used material' means any material of which previous use has been made, but manufacturing processes shall not be considered previous use.

(6) 'Renovate' means the reworking or remaking of used bedding or the making of bedding from previously used materials, except for the renovator's own personal use or the use of the renovator's immediate family.

(7) 'Sanitize' means treatment of secondhand bedding or previously used materials to be used in renovating for the destruction of pathogenic microorganisms and arthropods and the removal of dirt and filth.

(8) 'Secondhand bedding' means any bedding of which prior use has been made.

(9) 'Sell' or 'sold' means sell, have to sell, give away in connection with a sale, delivery or consignment; or possess with intent to sell, deliver or consign in sale.

"§ 130A-262. *Sanitizing.*—(a) No person shall sell any renovated bedding or secondhand bedding unless it is sanitized in accordance with rules adopted by the Commission.

(b) A sanitizing apparatus or process shall not be used for sanitizing bedding or material required to be sanitized under this Part until the apparatus is approved by the Department.

(c) A person who sanitizes bedding shall attach to the bedding a yellow tag containing information required by the rules of the Commission and shall affix to the bedding the adhesive stamp required by G.S. 130A-269.

(d) A person who sanitizes material or bedding for another person shall keep a complete record of the kind of material and bedding which has been sanitized. The record shall be subject to inspection by the Department.

(e) A person who receives used bedding for renovation or storage shall attach to the bedding a tag on which is legibly written the date of receipt and the name and address of the owner.

"§ 130A-263. *Manufacture regulated.*—All materials used in the manufacture of bedding in this State or used in manufactured bedding to be sold in this State shall be free of toxic materials and shall be made from new materials.

"§ 130A-264. *Storage of used materials.*—No establishment shall store any unsanitized previously used materials in the same room with bedding or materials that are new or have been sanitized unless the new or sanitized bedding or materials are completely segregated from the unsanitized materials in a manner approved by the rules of the Commission.

"§ 130A-265. *Tagging requirements.*—(a) A tag of durable material approved by the Commission shall be sewed securely to all bedding. The tag shall be at least two inches by three inches in size and shall have affixed to it the adhesive stamp or have a printed stamp exemption permit number provided for in G.S. 130A-269. The stamp shall be affixed so as not to interfere with the wording on the tag.

(b) The following shall be plainly stamped or printed upon the tag with ink in English:

(1) The name and kind of material or materials used to fill the bedding which are listed in the order of their predominance;

(2) A registration number obtained from the Department;

(3) In letters at least one-eighth inch high the words 'made of new material', if the bedding contains no previously used material; or the words 'made of previously used materials', if the bedding contains any previously used material; or the word 'secondhand' on any bedding which has been used but not remade; and

(4) A stamp exemption permit number when requirements of G.S. 130A-269 are met.

(c) A white tag shall be used for manufactured bedding and a yellow tag for renovated or sanitized bedding.

(d) The tag must be sewed to the outside covering before the filling material has been inserted. No trade name, advertisement nor any other wording shall appear on the tag.

"§ 130A-266. *Altering tags prohibited.*—No person, other than one purchasing bedding for personal use or a representative of the Department shall remove, deface or alter the tag required by this Part.

"§ 130A-267. *Selling regulated.*—(a) No person shall sell any bedding in this State (whether manufactured within or without this State) which has not been manufactured, tagged, labeled and stamped in the manner required by this Part and which does not otherwise comply with the provisions of this Part.

(b) This Part shall not apply to bedding sold by the owner and previous user from the owner's home directly to a purchaser for the purchaser's own personal use unless the bedding has been exposed to an infectious or communicable disease.

(c) Possession of any bedding in any store, warehouse, itinerant vendor's conveyance or place of business, other than a private home, hotel or other place where these articles are ordinarily used, shall constitute *prima facie* evidence that the item is possessed with intent to sell. No secondhand bedding shall be possessed with intent to sell for a period exceeding 60 days unless it has been sanitized.

"§ 130A-268. *Registration numbers; licenses.*—(a) All persons manufacturing or sanitizing bedding in this State or manufacturing bedding to be sold in this State shall apply for a registration number on a form prescribed by the Secretary. Upon receipt of the application, the Department shall issue to the applicant a certificate of registration showing the person's name and address, registration number and other pertinent information required by the rules of the Commission.

(b) For the purpose of defraying expenses incurred in the enforcement of the provisions of this Part, the following license fees are to be paid to the Department, deposited in the 'bedding law fund' and expended in accordance with the provisions of G.S. 130A-270. Unless exempted, no person shall sanitize any bedding until the person has received a 'sanitizer's license' upon the payment of twenty-five dollars ($25.00) for the calendar year to the Department. Unless exempted, no person shall manufacture any bedding in this State or manufacture bedding to be sold in this State until that person has

secured a 'manufacturer's license' upon the payment of twenty-five dollars ($25.00) for the calendar year to the Department.

(c) If a bedding manufacturing or sanitizing business is established after June 30, the license shall be furnished at half the annual fee and shall be valid for the remainder of the calendar year. The license may be transferred upon the sale of the business in accordance with the rules of the Commission.

(d) Licenses shall be kept conspicuously posted in the place of business of the licensee at all times.

(e) The Secretary may suspend a license of a person for up to six months for two or more serious violations of this Part or the rules of the Commission within any 12-month period.

"§ 130A-269. *Enforcement funds.*—(a) The Department shall administer and enforce this Part. The Department shall provide specially designated adhesive stamps for use under the provisions of this Part. Upon request and payment the Department shall furnish stamps at a rate of eighteen dollars ($18.00) per 500 stamps.

(b) A person manufacturing bedding in North Carolina or manufacturing bedding to be sold in this State may, in lieu of purchasing and affixing the adhesive stamps, annually secure from the Department a stamp exemption permit and print the stamp exemption number on the label.

(c) A stamp exemption permit may be issued to a person who has done business in this State throughout the preceding calendar year at a cost determined annually by the total number of bedding units manufactured or sold in this State by the applicant during the calendar year immediately preceding the issuance of the permit at the rate of eighteen dollars ($18.00) for each 500 bedding units or fraction of 500 units.

(d) A stamp exemption permit may be issued to a person who has not done business in this State throughout the preceding calendar year upon an initial payment of seven hundred twenty dollars ($720.00) per year, prorated in accordance with the quarter of the calendar year in which the person makes application for the permit. After submission of proof of business volume amounts in accordance with subsection (h) for that part of the preceding calendar year in which the person used a stamp exemption permit issued under this subsection, the Department shall determine the cost of the permit for that time period by using a rate of eighteen dollars ($18.00) for each 500 bedding units or fraction of 500 units. If the person's initial payment is more than the cost of the permit, the Department shall make a refund or an adjustment to the cost of the next permit in the amount of the difference. If the initial payment is less than the cost of the permit, the person shall pay the difference to the Department. Payments, refunds and adjustments shall be made in accordance with rules adopted by the Commission.

(e) A maximum charge of seven hundred fifty dollars ($750.00) shall be made for units of bedding manufactured in this State but not sold in this State.

(f) For the purpose of computing the cost of stamp exemption permits only, the following definitions shall apply: One mattress is defined as one bedding unit; one upholstered spring is defined as one bedding unit; one pad is defined as one bedding unit; one sleeping bag is defined as one bedding unit; five comforters or pillows are defined as one bedding unit; and any other item is defined as one bedding unit.

(g) An application for a stamp exemption permit must be submitted on a form prescribed by the Secretary. No stamp exemption permit may be issued to a person unless the person complies with the rules of the Commission governing the granting of stamp exemption permits.

(h) The Commission shall adopt rules for the proper enforcement of this section. The rules shall include provisions governing the type and amount of proof which must be submitted by the applicant to the Department in order to establish the number of bedding units that were, during the preceding calendar year:

(1) Manufactured and sold in this State;

(2) Manufactured outside of this State and sold in this State; and

(3) Manufactured in this State but not sold in this State.

(i) The Commission may provide in its rules for additional proof of the number of bedding units sold during the preceding calendar year when it has reason to believe that the proof submitted by the manufacturer is incomplete, misleading or incorrect.

"§ 130A-270. *Bedding law fund.*—(a) All money collected under this Part shall be paid to the Secretary who shall place all money in a special 'bedding law fund' which is created and specifically appropriated to the Department solely for expenses in furtherance of the enforcement of this Part. The Secretary shall semiannually render to the State Auditor a statement of all receipts and disbursements under the fund and the State Auditor shall furnish a copy of the statement to any person requesting it.

(b) All money in the 'bedding law fund' shall be expended solely for:

(1) Salaries and expenses of inspectors and other employees who enforce this Part; or

(2) Expenses directly connected with the enforcement of this Part, including attorney's fees, which are expressly authorized to be incurred by the Secretary without authority from any other source when in the Secretary's opinion it is advisable to employ an attorney to prosecute any persons. A sum not exceeding twenty percent (20%) of the salaries and expenses above enumerated may be used for supervision and general expenses of the Department.

"§ 130A-271. *Enforcement by the Department.*—(a) The Department shall enforce the provisions of this Part and the rules adopted by the Commission.

(b) The Secretary may prohibit sale and place an 'off sale' tag on any bedding which is not made, sanitized, tagged or stamped as required by this Part and the rules of the Commission. The bedding shall not be sold or otherwise removed until the violation is remedied and the Secretary has reinspected it and removed the 'off sale' tag.

(c) A person supplying material to a bedding manufacturer shall furnish an itemized invoice of all furnished material. Each material entering into willowed or other mixtures shall be shown on the invoice. The bedding manufacturer shall keep the invoice on file for one year subject to inspection by the Department.

(d) When the Secretary has reason to believe that bedding is not tagged or filled as required by this Part, the Secretary shall have authority to open a seam of the bedding to examine the filling, and, if unable after this examination to determine if the filling is of the kind stated on the tag, shall have the authority to examine purchase or other records necessary to determine

definitely the kind of material used in the bedding. The Secretary shall have authority to seize and hold for evidence any records and any bedding or bedding material which in the Secretary's opinion is made, possessed or offered for sale in violation of this Part or the rules of the Commission. The Secretary shall have authority to take a sample of any bedding or bedding material for the purpose of examination or for evidence.

"§ 130A-272. *Exemptions for blind persons and State institutions.*—(a) In cases where bedding is manufactured, sanitized or renovated in a plant or place of business which has qualified as a nonprofit agency for the blind or severely handicapped under P.L. 92-28, as amended, the responsible person shall satisfy the provisions of this Part and the rules of the Commission. However, the responsible persons at these plants or places of business shall not be required to affix stamps or pay a license tax. Bedding made at these plants or places of business may be sold by any dealer without the stamps being affixed.

(b) State institutions engaged in the manufacture, renovation or sanitizing of bedding for their own use or that of another State institution are exempted from all provisions of this Part.

"§ 130A-273. *Rules.*—The Commission shall adopt rules required by this Part in order to protect the public health.

"Part 9. Milk Sanitation.

"§ 130A-274. *Definitions.*—The following definitions shall apply throughout this Part:

(1) 'Milk' means the lacteal secretion practically free from colostrum obtained by the complete milking of one or more cows or goats.

(2) 'Grade "A" milk' means fluid milk and milk products which have been produced, transported, handled, processed and distributed in accordance with the provisions of the rules adopted by the Commission.

"§ 130A-275. *Commission to adopt rules.*—Notwithstanding the provisions of G.S. 106-267 *et seq.*, the Commission is authorized and directed to adopt rules relating to the sanitary production, transportation, processing and distribution of Grade 'A' milk. The rules, in order to protect and promote the public health, shall provide definitions and requirements for: (1) the sanitary production and handling of milk on Grade 'A' dairy farms; (2) the sanitary transportation of Grade 'A' raw milk for processing; (3) the sanitary processing of Grade 'A' milk; (4) the sanitary handling and distribution of Grade 'A' milk; (5) the requirements for the issuance, suspension and revocation of permits; and (6) the establishment of quality standards for Grade 'A' milk. The rules shall be no less stringent than the 1978 Pasteurized Milk Ordinance recommended by the U.S. Public Health Service/Food and Drug Administration as amended effective January 1, 1982.

"§ 130A-276. *Permits required.*—No person shall produce, transport, process, or distribute Grade 'A' milk without first having obtained a valid permit from the Department.

"§ 130A-277. *Duties of the Department.*—The Department shall enforce the rules of the Commission governing Grade 'A' milk by making sanitary inspections of Grade 'A' dairy farms, Grade 'A' processing plants, Grade 'A' milk haulers and Grade 'A' distributors; by determining the quality of Grade 'A' milk; and by evaluating methods of handling Grade 'A' milk to insure compliance with the provisions of the rules of the Commission. The Department shall issue permits for the operation of Grade 'A' dairy farms,

processing plants and haulers in accordance with the provisions of the rules of the Commission and shall suspend or revoke permits for violations in accordance with the rules. Upon request by a local board of health the Department shall delegate enforcement and permit authority to the local health department.

"§ 130A-278. *Certain authorities of Department of Agriculture not replaced.*—This Part shall not repeal or limit the Department of Agriculture's authority to carry out labeling requirements, required butterfat testing, aflatoxin testing, pesticide testing, other testing performed by the Department of Agriculture and any other function of the Department of Agriculture concerning Grade 'A' milk which is not inconsistent with this Article.

"§ 130A-279. *Sale of milk.*—Only milk which is Grade 'A' pasteurized milk may be sold directly to consumers for human consumption.

"§ 130A-280 to 130A-289: Reserved for future codification purposes.

"ARTICLE 9.

"Solid Waste Management.

"§ 130A-290. *Definitions.*—The following definitions shall apply throughout this Article:

(1) 'Disposal' means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

(2) 'Federal act' means the Resource Conservation and Recovery Act of 1976, P.L. 94-580, as amended.

(3) 'Garbage' means all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.

(4) 'Hazardous waste' means a solid waste, or combination of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may:

a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

(5) 'Hazardous waste facility' means a facility for the storage, collection, processing, treatment, recycling, recovery or disposal of hazardous waste.

(6) 'Hazardous waste landfill facility' means any facility or any portion of a facility for disposal of hazardous waste on or in land in accordance with rules adopted under this Article.

(7) 'Hazardous waste generation' means the act or process of producing hazardous waste.

(8) 'Hazardous waste management' means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes.

(9) 'Manifest' means the form used for identifying the quantity, composition and the origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.

(10) 'Natural resources' means all materials which have useful physical or chemical properties which exist, unused, in nature.

(11) 'Open dump' means a solid waste disposal site which is not a sanitary landfill.

(12) 'Person' means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.

(13) 'Recycling' means the process by which recovered resources are transformed into new products so that the original products lose their identity.

(14) 'Refuse' means all nonputrescible waste.

(15) 'Resource recovery' means the process of obtaining material or energy resources from discarded solid waste which no longer has any useful life in its present form and preparing the solid waste for recycling.

(16) 'Sanitary landfill' means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under this Article.

(17) 'Sludge' means any solid, semisolid or liquid waste generated from a muncipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects.

(18) 'Solid waste' means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

a. Fecal waste from fowls and animals other than humans;

b. Solid or dissolved material in:

1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters;

2. Irrigation return flows; and

3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (PL 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (PL 94-580), as amended, shall also be a solid waste for the purposes of this Article;

c. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (PL 94-580), as amended, shall also be a solid waste for the purposes of this Article;

d. Any radioactive material as defined by the North Carolina Radiation Protection Act, G.S. 104E-1 through 104E-23; or

e. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (PL 94-580), as amended, shall also be a solid waste for the purposes of this Article.

(19) 'Solid waste disposal site' means any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

(20) 'Solid waste generation' means the act or process of producing solid waste.

(21) 'Solid waste management' means purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.

(22) 'Solid waste management facility' means land, personnel and equipment used in the management of solid waste.

(23) 'Storage' means the containment of solid waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal.

(24) 'Treatment' means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any solid waste to neutralize the waste or to render the waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. The term includes any activity or processing designed to change the physical form or chemical composition of solid waste to render it nonhazardous.

"§ 130A-291. *Solid waste unit in Department.*—For the purpose of promoting and preserving an environment that is conducive to public health and welfare, and preventing the creation of nuisances and the depletion of natural resources, the Department shall maintain an appropriate administrative unit to promote sanitary processing, treatment, disposal and overall management of solid waste and the greatest possible recycling and recovery of resources, and the Department shall employ and retain qualified personnel as necessary. To the extent necessary, practicable and appropriate, the Department shall consult and coordinate with other State agencies, units of local government, the federal government, industries and individuals in the promotion of sanitary processing, treatment, disposal and overall management of solid waste and the recycling and recovery of resources.

"§ 130A-292. *Conveyance of land used for hazardous waste landfill facility to the State.*—(a) No land may be used for a commercial hazardous waste landfill facility until fee simple title to the land has been conveyed to this State. In consideration for the conveyance, the State shall enter into a lease agreement with the grantor for a term equal to the estimated life of the facility in which the State will be the lessor and the grantor the lessee. The lease agreement shall specify that for an annual rent of fifty dollars ($50.00), the lessee shall be allowed to use the land for the development and operation of a hazardous waste landfill facility. The lease agreement shall provide that the lessor or any person authorized by the lessor shall at all times have the right to enter without a search warrant or permission of the lessee upon any and all parts of the premises for monitoring, inspection and all other purposes necessary to carry

out the provisions of this Article. The lessee shall remain fully liable for all damages, losses, personal injury or property damage which may result or arise out of the lessee's operation of the facility, and for compliance with regulatory requirements concerning insurance, bonding for closure and post-closure costs, monitoring and other financial or health and safety requirements as required by applicable law and rules. The State, as lessor, shall be immune from liability except as otherwise provided by statute. The lease shall be transferable with the written consent of the lessor and the consent will not be unreasonably withheld. In the case of a transfer of the lease, the transferee shall be subject to all terms and conditions that the State deems necessary to ensure compliance with applicable laws and rules. If the lessee or any successor in interest fails in any material respect to comply with any applicable law, rule or permit condition, or with any term or condition of the lease, the State may terminate the lease after giving the lessee written notice specifically describing the failure to comply and upon providing the lessee a reasonable time to comply. If the lessee does not effect compliance within the reasonable time allowed, the State may reenter and take possession of the premises.

(b) Notwithstanding the termination of the lease by either the lessee or the lessor for any reason, the lessee shall remain liable for, and be obligated to perform, all acts necessary or required by law, rule, permit condition or the lease for the permanent closure of the site until the site has either been permanently closed or until a substitute operator has been secured and has assumed the obligations of the lessee.

(c) In the event of changes in laws or rules applicable to the facility which make continued operation by the lessee impossible or economically infeasible, the lessee shall have the right to terminate the lease upon giving the State reasonable notice of not less than six months, in which case the lessor shall have the right to secure a substitute lessee and operator.

(d) In the event of termination of the lease by the lessor as provided in subsection (a) of this section, or by the lessee as provided in subsection (c) of this section, the lessee shall be paid the fair market value of any improvements made to the leased premises less the costs to the lessor resulting from termination of the lease and securing a substitute lessee and operator. However, the lessor shall have no obligation to secure a substitute lessee or operator and may require the lessee to permanently close the facility.

"§ 130A-293. *Local ordinances prohibiting hazardous waste facilities invalid; petition to establish facility.*—(a) Notwithstanding any authority granted to counties, municipalities or other local authorities to adopt local ordinances, including those regulating land use, any local ordinance which prohibits or has the effect of prohibiting the establishment or operation of a hazardous waste facility or a hazardous waste landfill facility which the Governor's Waste Management Board and the Governor have approved pursuant to subsections (b) and (c) of this section, shall be invalid only to the extent necessary to effectuate the purposes of this Article. For the purpose of this section, the Governor's Waste Management Board shall include, in addition to the members enumerated in G.S. 143B-216.12(a), two members appointed by the local governing body: (1) of the city in which the proposed site is located; or (2) of the county in which the proposed site is located (if the proposed site is outside city limits). The terms of the members appointed by the local governing body shall end upon the final determination made by the Governor under this section.

(b) When a hazardous waste facility would be prevented from construction or operation by a county, municipal or other local ordinance(s), the developer or operator of the facility may petition the Governor's Waste Management Board to review the matter. After receipt of a petition, the Board shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall recommend that the Governor either approve or disapprove the establishment and operation of the facility. After receiving a written recommendation from the Board, if the Governor makes the four findings set forth in subsection (c) of this section, the Governor shall approve the establishment or operation of the facility. If the Governor does not make all of the four findings set forth in subsection (c) of this section, the Governor shall disapprove the establishment or operation of the facility. The Governor shall affirm or disaffirm the findings of the Board and may make additional findings. The decision of the Governor shall be final unless a party to the action shall, pursuant to G.S. 7A-29, file a written appeal within 30 days of the date of the decision. The record on appeal shall include all materials and information submitted to or considered by the Governor in accordance with subsection (c) of this section. The scope of judicial review shall be limited to questions of abuse of discretion.

(c) When a petition as described in subsection (b) of this section has been filed with the Governor's Waste Management Board, the Board shall hold a public hearing to consider the petition. The hearing shall be held in the affected locality in accordance with Article 2 of Chapter 150A of the General Statutes within a reasonable time after receipt of the petition by the Board. The Board shall publish notice of the hearing twice a week for two successive weeks in a newspaper of general circulation in the county where the proposed site is located. The final notice shall appear at least 15 days, but not more than 25 days, before the hearing date. Any interested persons may appear before the Board at the hearing to offer testimony. In addition to testimony before the Board, an interested person may submit written material to the Board for its consideration. No later than 60 days after the hearing, the Board shall present its written recommendation to the Governor to approve or disapprove the facility. Before recommending that the Governor approve the facility, the Board must make the following findings:

(1) That the proposed facility is needed in order to establish adequate capability for the management of hazardous waste generated in this State and serves the interests of the citizens of the State as a whole;

(2) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies;

(3) That local citizens and elected officials have had adequate opportunity to participate in the siting process; and

(4) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility developer or operator has taken or consented to take any reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with applicable ordinance(s).

The Board's written recommendation shall include a complete transcript of the hearing, all written material presented to the Board regarding the site location and the specific findings required in this subsection and any minority positions on the recommendation and the specific findings required in this subsection. The Governor shall issue a decision within a reasonable time

following receipt of the recommendation from the Board and may consider any additional relevant information. The Governor's decision shall be in writing and shall identify the material submitted by the Board plus any additional materials used in arriving at the decision.

(d) The provisions of this section shall not apply to the siting of a hazardous waste landfill facility until the rules for the operation of the facilities have been adopted by the appropriate State agencies.

"§ 130A-294. *Solid waste management program.*—(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

(1) Develop a comprehensive program for implementation of safe and sanitary practices for management of solid waste;

(2) Advise, consult, cooperate and contract with other State agencies, units of local government, the federal government, industries and individuals in the formulation and carrying out of a solid waste management program;

(3) Develop and adopt rules to establish standards for qualification as a waste 'recycling, reduction or resource recovering facility' or as waste 'recycling, reduction or resource recovering equipment' for the purpose of special tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. The standards shall be developed to qualify only those facilities and equipment exclusively used in the actual waste recycling, reduction or resource recovering process and shall exclude any incidental or supportive facilities and equipment;

(4) Develop a permit system governing the establishment and operation of solid waste management facilities. No permit shall be granted for a solid waste management facility having discharges which are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans which will be required for the applicant to obtain a permit;

(5) Delegate authority and responsibility to units of local government, including counties, to perform all or any portion of a solid waste management program within a jurisdictional area. No authority over or control of the operations or properties of one unit of local government shall be delegated to any other unit of local government; and

(6) The Department is authorized to charge and collect fees from operators of hazardous waste landfill facilities. The fees shall be used to establish a fund sufficient for each individual facility to defray the anticipated costs to the State for monitoring and care of the facility after the termination of the period during which the facility operator is required by applicable State and federal statutes, regulations or rules to remain responsible for post-closure monitoring and care. In establishing the

fees, consideration shall be given to the size of the facility, the nature of the hazardous waste and the projected life of the facility.

(b) The Commission shall adopt and the Department shall enforce rules for the establishment, location, operation, maintenance, use and discontinuance of solid waste management sites and facilities. These rules shall be designed to accomplish the maintenance of safe and sanitary conditions in and around solid waste management sites and facilities, and shall be based on recognized public health practices and procedures, sanitary engineering research and studies, and current technological development in equipment and methods. The rules shall not apply to the management of solid waste that is generated by an individual or individual family or household unit on the individual's property and is disposed of on the individual's property.

(c) The Commission shall adopt and the Department shall enforce rules concerning the management of hazardous waste. These rules shall establish a complete and integrated regulatory scheme in the area of hazardous waste management and shall provide for:

(1) Establishing criteria for hazardous waste, identifying the characteristics of hazardous waste and listing particular hazardous waste;

(2) Record-keeping and reporting by generators and transporters of hazardous waste and owners and operators of hazardous waste facilities;

(3) Proper labeling of hazardous waste containers;

(4) Use of appropriate containers for hazardous waste;

(5) A manifest system to assure that all hazardous waste is designated for treatment, storage or disposal at a hazardous waste facility to which a permit has been issued;

(6) Proper transportation of hazardous waste;

(7) Treatment, storage and disposal standards of performance and techniques to be used by hazardous waste facilities;

(8) Location, design, ownership and construction of hazardous waste facilities; provided, however, that no hazardous waste landfill facility or polychlorinated biphenyl landfill facility shall be located within 25 miles of any other hazardous waste landfill facility or polychlorinated biphenyl landfill facility;

(9) Plans to minimize unanticipated damage from treatment, storage or disposal of hazardous waste; and a plan or plans providing for the establishment and/or operation of one or more hazardous waste facilities in the absence of adequate approved hazardous waste facilities established or operated by any person within the State;

(10) Proper maintenance and operation of hazardous waste facilities, including requirements for ownership by any person or the State, financial responsibility (including requirements for sufficient availability of funds for facility closure and post-closure monitoring and corrective measures), training of personnel, continuity of operation and procedures for establishing and maintaining hazardous waste facilities;

(11) Monitoring by owners or operators of hazardous waste facilities;

(12) Inspection or copying of records required to be kept;

(13) Obtaining and analyzing hazardous waste samples and samples of hazardous waste containers and labels from generators and transporters and from owners and operators of hazardous waste facilities;

(14) A permit system governing the establishment and operation of hazardous waste facilities; and

(15) Additional requirements as necessary for the effective management of hazardous waste.

(16) The operator of the hazardous waste landfill facility shall maintain adequate insurance to cover foreseeable claims arising from the operation of the facility. The Board shall determine what constitutes an adequate amount of insurance.

(17) The bottom of a hazardous waste landfill facility shall be at least 10 feet above the seasonal high water table and more when necessary to protect the public health and the environment.

(18) The operator of a hazardous waste landfill facility shall make monthly reports to the Governor's Waste Management Board and to the board of county commissioners of the county in which the facility is located on the kinds and amounts of hazardous wastes in the facility.

(d) The Commission is authorized to adopt and the Department is authorized to enforce rules where appropriate for public participation in the consideration, development, revision, implementation and enforcement of any permit rule, guideline, information or program under this Article. Such rules shall not limit in any way the rights of aggrieved parties to judicial review of decisions regarding permits as provided for by Article 4 of Chapter 150A of the General Statutes. For the purposes of such judicial review of permit decisions, 'aggrieved persons' shall include, but not be limited to, organizations with members residing in the county where the permitted activity is to take place, and organizations whose members regularly use the area of the permitted activity for recreational purposes.

(e) The rules adopted under this section shall be no less stringent than the most recent regulations adopted under the federal act and may be amended.

(f) Within five days of receiving an application for a permit or for an amendment to an existing permit for a hazardous waste facility, the Department shall notify the clerk to the county board of commissioners or, if the facility is located within a city, the city clerk where the facility is proposed to be located. Prior to the issuance of a permit or an amendment of an existing permit for a hazardous waste facility, the Department shall issue public notice and conduct a public hearing in any county in which a hazardous waste facility is to be located. Notice and public hearings shall be in accordance with the appropriate federal regulations adopted pursuant to the federal act and with Chapter 150A of the General Statutes. Where the provisions of the federal regulations and Chapter 150A of the General Statutes are inconsistent, the federal regulations shall apply.

"§ 130A-295. *Additional requirements for hazardous waste facilities.*—An applicant for a permit for a hazardous waste facility shall satisfy the Department that:

(1) Any hazardous waste facility constructed or operated by the applicant, or any parent or subsidiary corporation if the applicant is a corporation, has been operated in accordance with sound waste management practices and in substantial compliance with federal and State laws, regulations and rules; and

(2) The applicant, or any parent or subsidiary corporation if the applicant is a corporation, is financially qualified to operate the proposed hazardous waste facility.

"§ 130A-296. *Limitations on powers of local governments.*—It is the intent of the General Assembly to prescribe a uniform system for the management of hazardous waste and to place limitations upon the exercise by all units of local government in the State of the power to regulate the management of hazardous waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations, or otherwise, as provided in G.S. 143B-216.10(b).

"§ 130A-297. *Receipt and distribution of funds.*—The Department may accept loans and grants from the federal government and other sources for carrying out the purposes of this Article, and shall adopt reasonable policies governing the administration and distribution of funds to units of local government, other State agencies, and private agencies, institutions or individuals for studies, investigations, demonstrations, surveys, planning, training, and construction or establishment of solid waste management facilities.

"§ 130A-298. *Hazardous waste fund.*—A nonreverting hazardous waste fund is established within the Department which shall be available to defray the cost to the State for monitoring and care of hazardous waste landfill facilities after the termination of the period during which the facility operator is required by applicable State and federal statutes, rules or regulations to remain responsible for post-closure monitoring and care. The establishment of this fund shall in no way be construed to relieve or reduce the liability of facility operators or any persons for damages caused by the facility. The fund shall be maintained by fees collected pursuant to the provisions of G.S. 130A-294(a)(6).

"§ 130A-299. *Single agency designation.*—The Department is designated as the single State agency for purposes of the federal act or any State or federal legislation enacted to promote the proper management of solid waste.

"§ 130A-300. *Effect on laws applicable to water pollution control.*—This Article shall not be construed as amending, repealing or in any manner abridging or interfering with those sections of the General Statutes of North Carolina relative to the control of water pollution as now administered by the Environmental Management Commission nor shall the provisions of this Article be construed as being applicable to or in any way affecting the authority of the Environmental Management Commission to control the discharges of wastes to the waters of the State as provided in Articles 21 and 21A, Chapter 143 of the General Statutes.

"§ 130A-301. *Recordation of permits for disposal of waste on land.*—(a) Whenever the Department approves a permit for a sanitary landfill or a facility for the disposal of hazardous waste on land, the owner of the facility shall be granted both an original permit and a copy certified by the Secretary. The permit shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance.

(b) The owner of a facility granted a permit for a sanitary landfill or a facility for the disposal of hazardous waste on land shall file the certified copy of the permit in the register of deeds' office in the county or counties in which the land is located.

(c) The register of deeds shall record the certified copy of the permit and index it in the grantor index under the name of the owner of the land.

(d) The permit shall not be effective unless the certified copy is filed as required under subsection (b).

(e) When a sanitary landfill or a facility for the disposal of hazardous waste on land is sold, leased, conveyed or transferred, the deed or other instrument of transfer shall contain in the description section in no smaller type than that used in the body of the deed or instrument a statement that the property has been used as a sanitary landfill or a disposal site for hazardous waste and a reference by book and page to the recordation of the permit.

"§ 130A-302. *Sludge deposits at sanitary landfills.*—Sludges generated by the treatment of wastewater discharges which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (PL 92-500), or permits generated under G.S. 143-215.1 by the Environmental Management Commission shall not be deposited in or on a sanitary landfill permitted under this Article unless in compliance with the rules concerning solid waste adopted under this Article.

"§ 130A-303. *Imminent hazard.*—(a) The judgement of the Secretary that an imminent hazard exists concerning solid waste shall be supported by findings of fact made by the Secretary.

(b) In order to eliminate an imminent hazard, the Secretary may, without notice or hearing, issue an order requiring that immediate action be taken to protect the public health or the environment. This order may be directed to a generator or transporter of solid waste or to the owner or operator of a solid waste management facility.

"§ 130A-304. *Information received pursuant to this Article.*—(a) For the purposes of this Article, upon a showing satisfactory to the Department by a person that all or any part of records, reports or information to which the Department has access under G.S. 130A-16, would divulge information entitled to protection under subsection (b), the Department shall consider the information confidential in accordance with the purposes of that subsection, except that the record, report or information may be disclosed to other officers, employees or authorized representatives of the Department concerned with carrying out this Article or when relevant in any proceeding under this Article.

(b) For the purposes of this Article, if an officer or employee of the Department publishes, divulges, discloses or makes known in any manner or to any extent not authorized by law any information revealed in the course of employment or official duties or by reason of examination or investigation made by, or return, report or record made to or filed with the Department which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy or any book containing any abstract or its particulars to be seen or examined by any person except as provided in subsection (a) shall be guilty of a misdemeanor and fined not more than five hundred dollars ($500.00) or imprisoned not more than two years or both; and shall be removed from office or employment.

"§ 130A-305. *Construction.*— This Article shall be interpreted as enabling the State to obtain federal financial assistance in carrying out its solid waste management program and to obtain the authority needed to assume primary enforcement responsibility for that portion of the solid waste management program concerning the management of hazardous waste.

"§ 130A-306 to 130A-310: Reserved for future codification purposes.

"ARTICLE 10.

"North Carolina Drinking Water Act.

"§ 130A-311. *Short title.*—This Article shall be cited as the 'North Carolina Drinking Water Act.'

"§ 130A-312. *Purpose.*—The purpose of this Article is to regulate water systems within the State which supply drinking water that may affect the public health.

"§ 130A-313. *Definitions.*—The following definitions shall apply throughout this Article:

(1) 'Administrator' means the Administrator of the United States Environmental Protection Agency.

(2) 'Certified laboratory' means a facility for performing bacteriological, chemical or other analyses on water which has received interim or final certification by either the Environmental Protection Agency or the Department.

(3) 'Contaminant' means any physical, chemical, biological or radiological substance or matter in water.

(4) 'Drinking water rules' means rules adopted pursuant to this Article.

(5) 'Federal act' means the Safe Drinking Water Act of 1974, P. L. 93-523, as amended.

(6) 'Federal agency' means any department, agency or instrumentality of the United States.

(7) 'Maximum contaminant level' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

(8) 'National primary drinking water regulations' means primary drinking water regulations promulgated by the Administrator pursuant to the federal act.

(9) 'Person' means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.

(10) 'Public water system' means a system for the provision to the public of piped water for human consumption if the system serves 15 or more service connections or which regularly serves 25 or more individuals. The term includes:

a. Any collection, treatment, storage or distribution facility under control of the operator of the system and used primarily in connection with the system; and

b. Any collection or pretreatment storage facility not under the control of the operator of the system which is used primarily in connection with the system.

A public water system is either a 'community water system' or a 'noncommunity water system' as follows:

a. 'Community water system' means a public water system which serves 15 or more service connections or which regularly serves at least 25 year-round residents.

b. 'Noncommunity water system' means a public water system which is not a community water system.

(11) 'Supplier of water' means a person who owns, operates or controls a public water system.

(12) 'Treatment technique requirement' means a requirement of the drinking water rules which specifies a specific treatment technique for a contaminant

which leads to reduction in the level of the contaminant sufficient to comply with the drinking water rules.

"§ 130A-314. *Scope of the Article.*—(a) The provisions of this Article shall apply to each public water system in the State unless the public water system meets all of the following conditions:

(1) Consists only of distribution and storage facilities and does not have any collection and treatment facilities;

(2) Obtains all of its water from, but is not owned or operated by, a public water system to which the drinking water rules apply;

(3) Does not sell water to any person; and

(4) Is not a carrier which conveys passengers in interstate commerce.

(b) A provision of any charter granted to a public water system in conflict with the provisions of this Article is repealed.

"§ 130A-315. *Drinking water rules.*—(a) The Commission shall adopt and the Secretary shall enforce drinking water rules to regulate public water systems. The rules may distinguish between community water systems and noncommunity water systems.

(b) The rules shall:

(1) Specify contaminants which may have an adverse effect on the public health;

(2) Specify for each contaminant either:

a. A maximum contaminant level which is acceptable in water for human consumption, if it is feasible to establish the level of the contaminant in water in public water systems; or

b. One or more treatment techniques which lead to a reduction in the level of contaminants sufficient to protect the public health, if it is not feasible to establish the level of the contaminants in water in a public water system; and

(3) Establish criteria and procedures to assure a supply of drinking water which dependably complies with maximum contaminant levels and treatment techniques as determined in paragraph (2) of this subsection. These rules may provide for:

a. The minimum quality of raw water which may be taken into a public water system;

b. A program of laboratory certification;

c. Monitoring and analysis;

d. Record-keeping and reporting;

e. Notice of noncompliance, failure to perform monitoring, variances and exemptions;

f. Inspection of public water systems; inspection of records required to be kept; and the taking of samples;

g. Criteria for design and construction of new or modified public water systems;

h. Review and approval of design and construction of new or modified public water systems;

i. Siting of new public water system facilities;

j. Variances and exemptions from the drinking water rules; and

k. Additional criteria and procedures as may be required to carry out the purpose of this Article.

(c) The drinking water rules may be amended as necessary in accordance with required federal regulations.

"§ 130A-316. *Department to examine waters.*—The Department shall examine all waters and their sources and surroundings which are used as, or proposed to be used as, sources of public water supply to determine whether the waters and their sources are suitable for use as public water supply sources.

"§ 130A-317. *Department to provide advice; submission and approval of public water system plans.*—(a) The Department shall advise all persons and units of local government locating, constructing, altering or operating or intending to locate, construct, alter or operate a public water system of the most appropriate source of water supply and the best practical method of purifying water from that source having regard to the present and prospective needs and interests of other persons and units of local government which may be affected. The Department shall also advise concerning accepted engineering practices in the location, construction, alteration and operation of public water systems.

(b) All persons and units of local government constructing or altering a public water system shall give prior notice and submit plans, specifications and other information to the Department. The Commission shall adopt rules providing for the amount of prior notice required to be given and the nature and detail of the plans, specifications and other information required to be submitted. The Commission shall take into consideration the complexity of the construction or alteration which may be involved and the resources of the Department to review the plans, specifications and other information. The Department shall review the plans, specifications and other information, and notify the person, Utilities Commission and unit of local government of compliance or lack of compliance with applicable statutes and rules of the Commission.

(c) No person or unit of local government shall begin construction or alteration of a public water system or award a contract for construction or alteration unless:

(1) The plans for construction or alteration have been prepared by an engineer licensed by this State;

(2) The Department has determined that the system, as constructed or altered, will be capable of compliance with the drinking water rules;

(3) The Department has determined that the system is capable of interconnection at an appropriate time with an expanding municipal, county or regional system;

(4) The Department has determined that adequate arrangements have been made for the continued operation, service and maintenance of the public water system; and

(5) The Department has approved the plans and specifications.

"§ 130A-318. *Disinfection of public water systems.*—(a) The Department is authorized to require disinfection of:

(1) Public water systems introduced on or after January 1, 1972; and

(2) All public water systems, regardless of the date introduced, whenever:

a. The maximum microbiological contaminant level is exceeded; or

b. Conditions exist which make continued use of the water potentially hazardous to public health.

(b) Public water systems shall employ disinfection methods and procedures approved by the Department.

"§ 130A-319. *Condemnation of lands for public water systems.*—All units of local government operating public water systems and all water companies operating under franchise from the State or units of local government, may acquire by condemnation lands and rights in lands and water necessary for the successful operation and protection of their systems. Condemnation proceedings under this section shall be the same as prescribed by law under Chapter 40A of the General Statutes.

"§ 130A-320. *Sanitation of watersheds; rules; inspections.*—(a) The Commission shall adopt rules governing the sanitation of watersheds from which public drinking water supplies are obtained. In adopting these rules the Commission is authorized to consider the different classes of watersheds, taking into account general topography, nature of watershed development, density of population and need for frequency of sampling of raw water. The rules shall govern the keeping of livestock, operation of recreational areas, maintenance of residences and places of business, disposal of sewage, establishment of cemeteries or burying grounds, and any other factors which would endanger the public water supply.

(b) Any person operating a public water system and furnishing water from unfiltered surface supplies shall inspect the watershed area at least quarterly, and more often when the Department determines that more frequent inspections are necessary.

"§ 130A-321. *Variances and exemptions; considerations; duration; condition; notice and hearing.*—(a) The Secretary may authorize variances from the drinking water rules.

(1) The Secretary may grant one or more variances to a public water system from any requirement respecting a maximum contaminant level of an applicable drinking water rule upon a finding that:

a. Because of characteristics of the raw water sources reasonably available to the system, the system cannot meet the requirements respecting the maximum contaminant levels of the drinking water rules despite application of the best technology, treatment techniques or other means which the Secretary finds are generally available (taking costs into consideration); and

b. The granting of a variance will not result in an unreasonable risk to public health when considering the population exposed, the projected duration of the requested variance and the degree to which the maximum contaminant level is being or will be exceeded.

(2) The Secretary may grant one or more variances to a public water system from any requirement of a specified treatment technique of an applicable drinking water rule upon a finding that the public water system applying for the variance has demonstrated that the treatment technique is not necessary to protect the public health because of the nature of the raw water source of the system.

(3) In consideration of whether the public water system is unable to comply with a contaminant level required by the drinking water rules because of the nature of the raw water sources, the Secretary shall consider factors such as:

a. The availability and effectiveness of treatment methods for the contaminant for which the variance is requested; and

b. Costs of implementing the best treatment(s), improving the quality of the raw water by the best means or using an alternate source.

(4) In consideration of whether a public water system should be granted a variance from a required treatment technique because the treatment is unnecessary to protect the public health, the Secretary shall consider factors such as:

a. Quality of the water source including water quality data and pertinent sources of pollution; and

b. Source protection measures employed by the public water system.

(b) The Secretary may authorize exemptions from the drinking water rules.

(1) The Secretary may exempt a public water system from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable drinking water rule upon a finding that:

a. Due to compelling factors, including economic factors, the public water system is unable to comply with the contaminant level or treatment technique requirement;

b. The public water system was in operation on the effective date of the contaminant level or treatment technique requirement or, for a system that was not in operation on that date, only if no reasonable alternative source of drinking water is available to the new system; and

c. The granting of the exemption will not result in an unreasonable risk to public health when considering the population exposed, the projected duration of the requested exemption and the degree to which the maximum contaminant level is being or will be exceeded.

(2) In consideration of whether the public water system is unable to comply due to compelling factors, the Secretary shall consider factors such as:

a. Construction, installation or modification of treatment equipment or systems;

b. The time needed to put into operation a new treatment facility to replace an existing system which is not in compliance; and

c. Economic feasibility of immediate compliance.

(c) As a condition of issuance of either a variance or an exemption, the Secretary shall require that the public water system adhere to a schedule of compliance, including increments of progress with each drinking water rule for which the variance or exemption was issued. As a further condition of the variance or exemption, the Secretary shall require implementation by the public water system of any necessary control measures prescribed by the Secretary during the period ending on the date of compliance with the requirement. The schedules of compliance must be prescribed within one year of the date the variance or exemption has been granted. The compliance schedule for an exemption shall require compliance as expeditiously as practical but no later than January 1, 1984, for the initial drinking water rules, and no later than seven years after the date of revised drinking water regulations setting new maximum contaminant levels or treatment techniques. Compliance dates can be extended two years if the public water supply has entered into an enforceable agreement to become part of a regional water system.

(d) The Secretary shall provide notice and opportunity for public hearing on proposed variances and proposed variance and exemption schedules.

"§ 130A-322. *Imminent hazard; power of the Secretary.*—(a) The Secretary shall judge whether an imminent hazard exists concerning a present or potential condition in a public water system.

(b) In order to eliminate an imminent hazard, the Secretary may, without notice or hearing, issue an order requiring the person or persons involved to immediately take action necessary to protect the public health. A copy of the order shall be delivered by certified mail or personal service. The order shall become effective immediately and shall remain in effect until modified or rescinded by the Secretary or by a court of competent jurisdiction.

"§ 130A-323. *Emergency plan for drinking water; emergency circumstances defined.*—(a) The Secretary shall develop and implement an adequate plan for the provision of drinking water under emergency circumstances. When the Secretary determines that emergency circumstances exist with respect to a need for drinking water, the Secretary may take action in accordance with the plan as necessary in order to provide drinking water.

(b) Emergency circumstances shall exist whenever the available supply of drinking water is inadequate.

"§ 130A-324. *Notice of noncompliance, failure to perform monitoring, variances and exemptions.*—Whenever a public water system:

(1) Is not in compliance with the drinking water rules;

(2) Fails to perform an applicable testing procedure or monitoring required by the drinking water rules;

(3) Is subject to a variance granted for inability to meet a maximum contaminant level requirement;

(4) Is subject to an exemption; or

(5) Fails to comply with the requirements prescribed by a variance or exemption,

the supplier shall as soon as possible, but not later than 48 hours after discovery, notify the Department and give public notification as prescribed by the drinking water rules.

"§ 130A-325. *Prohibited acts.*—The following acts are prohibited:

(1) Failure by a supplier of water to comply with this Article, an order issued under this Article, or the drinking water rules;

(2) Failure by a supplier of water to comply with the requirements of G.S. 130A-324 or the dissemination by a supplier of any false or misleading information with respect to remedial actions being undertaken to achieve compliance with the drinking water rules;

(3) Refusal by a supplier of water to allow the Department or local health department to inspect a public water system as provided for in G.S. 130A-16;

(4) The willful defiling by any person of any water supply of a public water system or the willful damaging of any pipe or other part of a public water system;

(5) The discharge by any person of sewage or other waste above the intake of a public water system, unless the sewage or waste has been passed through a system of purification approved by the Department and the Department of Natural Resources and Community Development; and

(6) The failure by a person to maintain a system approved by the Department for collecting and disposing of all accumulations of human excrement located on the watershed of a public water system.

"§ 130A-326. *Powers of the Secretary.*—To carry out the provisions of this Article, the Secretary is authorized to:

(1) Administer and enforce the provisions of this Article, the drinking water rules and orders issued under this Article;

(2) Enter into agreements or cooperative arrangements with, or participate in related programs of other states, other state agencies, federal or interstate agencies, units of local government, educational institutions, local health departments or other organizations or individuals;

(3) Receive financial and technical assistance from the federal government and other public or private agencies;

(4) Require public water systems to take actions or make modifications as necessary to comply with the requirements of this Article or the drinking water rules;

(5) Prescribe policies and procedures necessary or appropriate to carry out the Secretary's function under this Article; and

(6) Establish and collect fees to recover the costs of laboratory analyses performed for compliance with this Article. The fees shall not exceed two hundred dollars ($200.00) for each analysis.

"§ 130A-327. *Construction.*—This Article shall be interpreted as giving the State the authority needed to assume primary enforcement responsibility under the federal act.

"§ 130A-328 to 130A-332: Reserved for future codification purposes.

"ARTICLE 11.

"Sanitary Sewage Systems.

"§ 130A-333. *Purpose.*—The General Assembly finds and declares that continued installation, at a rapidly and constantly accelerating rate, of septic tank systems and other types of sanitary sewage systems in a faulty or improper manner and in areas where unsuitable soil and population density adversely affect the efficiency and functioning of these systems, has a detrimental effect on the public health and environment through contamination of land, groundwater and surface waters. Recognizing, however, that sewage can be rendered ecologically safe and the public health protected if methods of sewage collection, treatment and disposal are properly regulated and recognizing that sanitary sewage collection, treatment and disposal will continue to be necessary to meet the needs of an expanding population, the General Assembly intends to ensure the regulation of sewage collection, treatment and disposal systems so that these systems may continue to be used, where appropriate, without jeopardizing the public health.

"§ 130A-334. *Definitions.*—The following definitions shall apply throughout this Article:

(1) 'Construction' means any work at the site of placement done for the purpose of preparing a residence, place of business or place of public assembly for initial occupancy, or subsequent additions or modifications which increase sewage flow.

(2) 'Land sales business' means a business engaged in sales of land where a sanitary sewage collection, treatment and disposal system may be required. This definition shall not include sales of land upon which any residence, place of

business or place of public assembly is being or has been constructed and for which an improvement permit has been issued pursuant to G.S. 130A-336.

(3) 'Location' means the initial placement for occupancy of a residence, place of business or place of public assembly.

(4) 'Mobile home dealer' means a person or firm offering mobile homes for sale or lease within the State.

(5) 'Mobile home sales lot' means a place where two or more mobile homes are displayed and offered for sale or lease.

(6) 'Place of business' means a store, warehouse, manufacturing establishment, place of amusement or recreation, service station, office building or any other place where people work.

(7) 'Place of public assembly' means a fairground, auditorium, stadium, church, campground, theater or any other place where people assemble.

(8) 'Public or community sewage system' means a single system of sewage collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.

(9) 'Relocation' means the displacement of a residence or place of business from one site to another.

(10) 'Residence' means a private home, dwelling unit in a multiple family structure, hotel, motel, summer camp, labor work camp, mobile home, institution or any other place where people reside.

(11) 'Sanitary sewage system' means a complete system of sewage collection, treatment and disposal including approved privies, septic tank systems, connection to public or community sewage systems, sewage reuse or recycle systems, mechanical or biological treatment systems, or other such systems.

(12) 'Septic tank system' means a subsurface sanitary sewage system consisting of a settling tank and a subsurface disposal field.

(13) 'Sewage' means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with foodhandling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.

"§ 130A-335. *Sanitary sewage collection, treatment and disposal; rules.*—(a) A person owning or controlling a residence, place of business or a place of public assembly shall provide a sanitary sewage system. A sanitary sewage system may include components for collection, treatment and disposal of sewage.

(b) Any public or community sanitary sewage system and any sanitary sewage system which is designed to discharge effluent to the land surface or surface waters shall be approved by the Department of Natural Resources and Community Development under rules adopted by the Environmental Management Commission. All other sanitary sewage systems shall be approved by the Department of Human Resources under rules adopted by the Commission for Health Services.

(c) A sanitary sewage system subject to approval under rules of the Commission shall be reviewed and approved under rules of a local board of health in the following circumstances:

(1) The local board of health, on its own motion, has requested the Department to review its proposed rules concerning sanitary sewage systems; and

(2) The Department has found that the rules of the local board of health concerning sanitary sewage collection, treatment and disposal systems are at least as stringent as the Commission's rules, and are sufficient and necessary to safeguard the public health.

(d) The Department may, upon its own motion, upon the request of a local board of health or upon the request of a citizen of an affected county, review its findings under subsection (c) of this section.

(e) The rules of the Commission and the rules of the local board of health shall address at least the following: Sewage characteristics; Design unit; Design capacity; Design volume; Criteria for the design, installation, operation, maintenance and performance of sanitary sewage collection, treatment and disposal systems; Soil morphology and drainage; Topography and landscape position; Depth to seasonally high water table, rock and water impeding formations; Proximity to water supply wells, shellfish waters, estuaries, marshes, wetlands, areas subject to frequent flooding, streams, lakes, swamps and other bodies of surface or groundwaters; Density of sanitary sewage collection, treatment and disposal systems in a geographical area; Requirements for issuance, suspension and revocation of permits; and Other factors which affect the effective operation and performance of sanitary sewage collection, treatment and disposal systems. The rules regarding required design capacity and required design volume for sanitary sewage systems shall provide that exceptions may be granted upon a showing that a system is adequate to meet actual daily water consumption.

(f) The rules of the Commission and the rules of the local board of health shall classify sanitary systems of sewage collection, treatment and disposal according to size, type of treatment and any other appropriate factors. The rules shall provide construction requirements, standards for operation and ownership requirements for each classification of sanitary systems of sewage collection, treatment and disposal in order to prevent, as far as reasonably possible, any contamination of the land, groundwater and surface waters. The Department and local health departments may impose conditions on the issuance of permits and may revoke the permits for failure of the system to satisfy the conditions, the rules or this Article. The permits shall be valid for a period prescribed by the rules and may be renewed upon a showing satisfactory to the Department or the local health department that the system is in compliance with the current rules and this Article.

"§ 130A-336. *Improvement permit required.*—(a) No person shall commence or assist in the construction, location or relocation of a residence, place of business or place of public assembly in an area not served by an approved sanitary sewage system unless an improvement permit is obtained from the local health department. This requirement shall not apply to a residence exhibited for sale or stored for later sale and intended to be located at another site after sale.

(b) The local health department shall issue an improvement permit authorizing work to proceed and the installation or repair of a sanitary sewage system when it has determined after a field investigation that the system can be installed and operated in compliance with the rules and this Article. The Department and the local health department may impose conditions on the issuance of an improvement permit.

"§ 130A-337. *Inspection; operation permit required.*—(a) No sanitary system of sewage collection, treatment and disposal shall be covered or placed into use by any person until an inspection by the local health department has determined that the system has been installed or repaired in accordance with any conditions of the improvement permit, the rules and this Article.

(b) Upon determining that the system is properly installed or repaired and that the system is capable of being operated in accordance with the conditions of the improvement permit, the rules, this Article and any conditions to be imposed in the operation permit, the local health department shall issue an operation permit authorizing the residence, place of business or place of public assembly to be occupied and for the system to be placed into use. However, if the system is limited to a single septic tank system without a pump or other appurtenances serving a single one-family dwelling, then a certificate of completion shall be issued instead of an operation permit; also, if the system is limited to a single septic tank system without a pump or other appurtenances serving a single residence other than a one-family dwelling, or serving a place of business or a place of public assembly and having a design daily flow of not more than 480 gallons, then a certificate of completion shall be issued instead of an operation permit. A certificate of completion shall be issued when the septic tank system is properly installed or repaired and is capable of being operated in accordance with the conditions of the improvement permit, the rules and this Article.

(c) Upon determination that an existing sanitary sewage system has a valid operation permit or a valid certificate of completion and is operating properly in a mobile home park, the local health department shall issue authorization in writing for a mobile home to be connected to the existing system and to be occupied. Notwithstanding G.S. 130A-336, an improvement permit is not required for the connection of a mobile home to an existing system with a valid operation permit or a valid certificate of completion in a mobile home park.

(d) No person shall occupy a residence, place of business or place of public assembly, or place a sanitary sewage system into use or reuse for a residence, place of business or place of public assembly until an operation permit or a certificate of completion has been issued or authorization has been obtained pursuant to G.S. 130A-337(c).

"§ 130A-338. *Improvement permit or authorization required before other permits to be issued.*—Where construction, location or relocation is proposed to be done upon a residence, place of business or place of public assembly, no permit required for electrical, plumbing, heating, air conditioning or other construction, location or relocation activity under any provision of general or special law shall be issued until an improvement permit has been issued under G.S. 130A-336 or authorization has been obtained under G.S. 130A-337(c).

"§ 130A-339. *Limitation on electrical service.*—No person shall allow permanent electrical service to a residence, place of business or place of public assembly upon construction, location or relocation until the official electrical inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that the required improvement permit and an operation permit, a certificate of completion or authorization under G.S. 130A-337(c) has been obtained. Temporary electrical service necessary for constructing a residence, place of business or place of public assembly can be provided upon compliance with G.S. 130A-338.

"§ 130A-340 to 130A-345: Reserved for future codification purposes.

"ARTICLE 12.

"Mosquito and Vector Control.

"Part 1. Mosquito and Vector Control Program.

"§ 130A-346. *Mosquito and vector control program.*—(a) The Department shall establish and administer a vector control program to protect the public health and to promote an environment suitable for habitation. A vector is a living transporter and transmitter of the causative agent of a disease. The program shall address the problems presented by vectors and other arthropods and rodents of public health significance in this State, including, but not limited to, mosquitoes, ticks, rodents, fleas and flies. The Department is authorized to engage in research, conduct investigations and surveillance, implement a vector control program and take other actions necessary to control vectors.

(b) The Commission shall adopt rules necessary to implement the program including rules for the control of vectors and other arthropods and rodents.

"§ 130A-347. *Mosquito control funds.*—Funds received by the Department for mosquito control may be used to aid mosquito control districts and other units of local government engaged in mosquito control. The Commission shall adopt rules concerning the allocation of the funds. The rules may include provisions to withhold part of the mosquito control funds for the suppression of potential or documented mosquito-borne disease outbreaks. State aid for local physical control methods such as, but not limited to, cleaning, reopening or construction of ditches, restoration of streams and construction of impoundments shall not exceed the amount of funds and the value of services and facilities provided locally except State aid may be provided up to twice the locally provided amount for physical control methods in salt marsh areas. State aid for local chemical and biological control methods such as, but not limited to, control of immature and adult mosquitoes by use of chemicals, bacteria, fungi and mosquito fish shall not exceed the amount of funds and the value of services and facilities provided locally. State aid shall not be granted with respect to each individual project until the Department finds and certifies in writing for each project that: (1) the required local share is available; (2) there is a documented mosquito problem which requires abatement; (3) a work plan describing the method and procedures to be used for abatement is appropriate; and (4) the rules of the Commission have been met.

"§ 130A-348. *Control of impounded water.*—For the protection of the public health, the Commission shall adopt rules concerning the impoundment of water. The rules shall address proper preparation of the land for inundation, maintenance of the shoreline after inundation and any other factors necessary to control mosquitoes. Persons shall obtain permits from the Department before constructing impoundments and impounding water.

"§ 130A-349. *Control of outbreaks.*—In the event of potential or documented outbreaks of vector-borne disease as determined by the Secretary, the Secretary is authorized to use all appropriate means, including the expenditure of unallocated mosquito control funds, to prevent or suppress the outbreaks.

"§ 130A-350 to 130A-351: Reserved for future codification purposes.

"Part 2. Mosquito Control Districts.

"§ 130A-352. *Creation and purpose of mosquito control districts.*—For the purpose of protecting and promoting the public health and welfare by providing for the control of mosquitoes and other arthropods of public health significance,

mosquito control districts may be created in accordance with the provisions of this Part. A mosquito control district may be comprised of one or more contiguous counties or contiguous parts of one or more counties.

"§ 130A-353. *Nature of district; procedure for forming districts.*—(a) A mosquito control district shall be a body politic and corporate and a political subdivision of the State. A mosquito control district may sue and be sued in its corporate name.

(b) If the proposed district lies wholly within a county, ten percent (10%) or more of the resident freeholders within the proposed district may petition the board of commissioners of the county in which the proposed district lies setting forth the boundaries of the district and a suggested name for the district. For the purposes of this Part, the term 'freeholders' shall mean persons holding a deed to a tract of land within the district or proposed district, and also shall mean a person who has entered into a contract to purchase a tract of land within the district or proposed district, is making payments pursuant to a contract, and will receive a deed upon completion of the contractual payments. If the county board of commissioners considers the formation of the district to be in the interest of the public health, the board shall forward the petition to the Department. If the Department considers the formation of the district to be in the interest of the public health, the Department shall notify the county board of commissioners. Upon notification, the board shall give notice of a public hearing on the question of the formation of the district by advertising the time, place and purpose of the hearing once a week for four successive weeks prior to the hearing in a newspaper either published in the county or having a general circulation in the county. The public hearing shall be presided over by the chairman of the county board of commissioners and shall be attended by a representative of the Department. The hearing may be continued as may be necessary to hear the proponents and opponents of the formation of the district. If after the hearing, the county board of commissioners deem it advisable that the district be created, the board shall submit the question of whether or not the district shall be created to the voters residing within the proposed district at an election called for that purpose. Upon determining that the district should be created and established, and prior to the submission of the question of the formation of the district to the voters of the proposed district, the county board of commissioners may determine the maximum amount of special tax to be levied for mosquito control purposes should the formation of the district be approved by the voters. In no event shall the maximum authorized levy exceed thirty-five cents (35¢) upon the one hundred dollar ($100.00) assessed valuation. If the county board of commissioners determines that the maximum amount of special tax to be levied for mosquito control purposes is to be less than thirty-five cents (35¢) on the one hundred dollar ($100.00) valuation, the maximum amount must appear on the ballot to be used by the voters on the question of the creation of the district.

(c) Prior to the election, the county board of commissioners may make minor deviations in defining the boundaries of the proposed district if: (1) the board determines that minor deviation from the boundaries described in the petition is in the interest of public health; and (2) ten percent (10%) of the resident freeholders within the revised boundaries have signed the petition proposing the creation of the district or additional resident freeholders within the revised boundaries of the proposed district sign the petition to bring the total number

of petitioners within the proposed revised boundaries to not less than ten percent (10%) of the voters therein.

(d) The county board of commissioners shall request the county board of elections to hold the election and shall pay the expense of the election. The election shall be held in accordance with the applicable provisions of Chapter 163 of the General Statutes. Notice shall be given as provided in G.S. 163-33(8).

(e) The form of the question to be stated on the ballot shall be in substantially the following words:

'☐ FOR creation of the (here insert name) Mosquito Control District and the levy of a special tax (here insert the words "not to exceed" and the maximum amount of special tax to be levied for mosquito control purposes if the county board of commissioners has determined that the maximum authorized amount is to be less than thirty-five cents (35¢) on the one hundred dollar ($100.00) assessed valuation) for mosquito control purposes.

☐ AGAINST creation of the (here insert name) Mosquito Control District and the levy of a special tax (here insert the words "not to exceed" and the maximum amount of special tax to be levied for mosquito control purposes if the county board of commissioners has determined that the maximum authorized amount is to be less than thirty-five cents (35¢) on the one hundred dollar ($100.00) assessed valuation) for mosquito control purposes.'

The affirmative and negative forms shall be printed on one ballot and the voters shall make a mark of an 'X' in one of the squares preceding the form.

(f) If a majority of the voters voting at the election vote in favor of creation of the district and the levy of the special tax, the county board of commissioners shall declare the district created and shall adopt a resolution to that effect.

(g) In the event the proposed mosquito control district shall embrace lands lying in two or more counties, the petition signed by the requisite number of resident freeholders within the proposed district shall be addressed to the Department. If the Department deems the formation of the proposed district to be in the interest of the public health, the Department shall hold public hearings within the proposed district after first giving notice of the time and place of the hearings by publication once a week for four successive weeks in a newspaper published or circulated in the proposed district. A public hearing shall be held in the courthouse of each of the counties in which any part of the proposed district is situated. After the hearing, if the Department deems the formation of the district to be in the interest of the public health, the Department shall order an election to be held upon the question of the formation of the district after first advertising the time of the election in the manner provided in subsection (d). At the request of the Commission, the county commissioners of the counties in which the proposed district lies shall request the county board of elections to hold an election on the question with substantially the same form of ballot set forth in subsection (e). Each county shall bear the expense of the election held in that county. The board of elections shall certify the results to the county commissioners and the Commission. If a majority of the votes cast favor creation of the district and the levy of the special tax, the Commission shall declare the district created and the county commissioners shall enter the certification upon the minutes of the board. Registration shall be in accordance with G.S. 163-288.2.

"§ 130A-354. *Governing bodies for mosquito control districts.*—(a) A mosquito control district shall be governed by a board of commissioners. In the case of a district lying wholly within a single county, the board shall be composed of five members, all of whom shall be residents of the district. Three of the members shall be appointed by the county board of commissioners, one for an initial term of one year, one for an initial term of two years and one for an initial term of three years. All subsequent appointments made by the county board of commissioners shall be for terms of three years. One member shall be appointed by the Secretary and one member by the Director of the Wildlife Resources Commission. These two appointees shall serve at the pleasure of the appointing authority. A vacancy shall be filled by the authority which appointed the member creating the vacancy.

(b) In the case of a district lying in two or more counties, the Secretary shall appoint one member and the Director of the Wildlife Commission shall appoint one member. The board of commissioners of each county in which any part of the district lies shall appoint one member. In the event the district lies in only two counties, the board of commissioners of the county in which a majority of the acreage of the district lies shall appoint two members, one for an initial term of one year and the other for an initial term of two years. The other county shall appoint one member for an initial term of three years. All succeeding terms of county appointees shall be for three years. A vacancy shall be filled by the authority which appointed the member creating the vacancy, and the appointees of the Secretary and the Director of the Wildlife Resources Commission shall hold office at the pleasure of the appointing authority.

(c) At its first meeting, the board shall elect a chairman, a vice-chairman, a secretary and a treasurer. The office of secretary and treasurer may be held by the same member. All official acts done by the board shall be entered in a book of minutes to be kept by the secretary. The board shall meet at least quarterly and may meet in a special meeting at any time upon call of the chairman or any two members, and upon notice of the time, place and purpose of the meeting of not less than three days. Before entering upon the discharge of their duties, each member shall take and subscribe an oath of office as follows and the oath shall be entered in the minute book:

'I, ____, do solemnly swear that I will well and truly perform my duties as a Commissioner of the ____ Mosquito Control District.

_____

Signature

Affirmed and subscribed before me this ____ day of _____ 19__.

_____

Signature of Officer Administering Oath.'

"§ 130A-355. *Corporate powers.*—A mosquito control district created in accordance with the provisions of this Part shall have and exercise through its board of commissioners the following corporate powers in addition to any incidental powers as may be necessary in order to discharge its corporate functions:

(1) To levy ad valorem taxes upon all the taxable property within the district at a rate not to exceed thirty-five cents (35¢) upon the adjusted one hundred dollar ($100.00) assessed valuation, except as provided in subdivision (a) of this subsection.

a. Where a mosquito control district lies solely within a single county and includes the entire county, the county board of commissioners may levy and determine the rate of ad valorem tax to be levied at a rate not to exceed thirty-five cents (35¢) upon the adjusted one hundred dollar ($100.00) assessed valuation. Where a mosquito control district lies wholly within a single county and the maximum authorized special tax approved by the voters at the time of voting on the creation of the district was less than thirty-five cents (35¢) on the one hundred dollar assessed valuation, the ad valorem tax levy shall not exceed the lesser amount.

b. In the case of a district lying wholly within a single county, the valuations assessed by the county tax authorities shall be used by the mosquito control district or the county board of commissioners as the basis for its tax assessment. The mosquito control district or the county board of commissioners shall certify its tax rate to the county tax collector or supervisor in time to have the rate and the amount of tax due upon the valuation entered upon the official county tax receipts and stubs or duplicates. The county tax collector shall collect the taxes at the same time as county taxes are collected and shall deposit the receipts to the credit of the mosquito control district in a depository or depositories designated by the governing board of the district.

c. In the case of a district lying in two or more counties, the commissioners of the mosquito control district shall horizontally equalize the assessed valuations of the property in all counties in which the district lies by adjusting the ratio of assessed valuation in the counties to the true values of the taxable property in the counties. From the adjusted and equalized valuations, any county board of commissioners may appeal to the Department of Revenue using the procedures set forth in Subchapter II of Chapter 105 of the General Statutes.

d. The board of commissioners of the mosquito control district shall levy a tax based upon the equalized assessed valuations and shall certify the amount of the levy against each taxpayer to the appropriate county tax collector or supervisor in time for the amount of the mosquito control district tax to be entered upon the county tax receipts and stubs or duplicates. The county tax collectors shall collect the tax and deposit the receipts to the credit of the mosquito control district in a depository or depositories designated by the commissioners of the district.

e. The taxes levied according to this Part shall become due; shall be subject to the same discounts, penalties and interest; and shall have the same remedies for the collection and refund of the taxes as provided for county and municipal ad valorem taxation by Chapter 310 of the Session Laws of 1939 as amended. These taxes shall constitute a lien to the same extent and with the same force and effect as county and municipal ad valorem taxes and shall have equal priority with those taxes;

(2) To accept gifts or endowments and to receive federal and State grants-in-aid. All money or property acquired under this section or any other source, shall be deposited in a separate fund to be used solely for the purpose of carrying out the provisions of this Part. The deposited funds shall be withdrawn by warrants

signed by the chairperson of the governing board of the district and countersigned by the secretary;

(3) To take all necessary and proper steps to prevent the breeding of mosquitoes and other arthropods of public health significance within the district, and to destroy adult mosquitoes and other arthropods of public health significance found within the district;

(4) To conduct arthropod control measures in cooperation with individuals, firms and corporations, and federal, State and local governmental agencies;

(5) To enter all places both publicly and privately owned within the district to inspect, survey and treat with proper means all places where mosquitoes or other arthropods of public health significance are breeding and to take other actions as may be necessary;

(6) To acquire by purchase, condemnation or otherwise, and to hold real and personal property, easements, rights-of-way or other property necessary or convenient for accomplishing the purpose of this Part. Any land which has been acquired by the board and improved by drainage, filling, diking or other treatment, and other real property held by the board may be sold or leased through competitive bidding. All condemnation proceedings are to be in accordance with the provisions of Chapter 40A of the General Statutes;

(7) To employ necessary personnel; fix salaries; purchase equipment, supplies and materials; make contracts; rent office or storage space; and perform other administrative functions necessary for the purpose of carrying out this Part;

(8) To borrow money in anticipation of tax collection and to execute and deliver its notes or bonds. Money shall be borrowed in gross amounts not to exceed the anticipated tax receipts for the fiscal year;

(9) To reimburse members and employees of the board for actual expenditures incurred in authorized travel; and

(10) To employ a district superintendent who is an engineer, entomologist or otherwise qualified as an arthropod control specialist. The professional qualifications of the superintendent must be approved by the Secretary.

"§ 130A-356. *Adoption of plan of operation.*—(a) At least 60 days prior to the initiation of operations, the governing board of each mosquito control district must submit to the Secretary, a plan of procedure and operation in a form and manner prescribed by the Secretary. The Secretary shall have authority to approve, modify or take other appropriate action in regard to the plans. No contract may be entered into, program commenced or work begun prior to the approval of the plan by the Secretary.

(b) At least 60 days prior to the expiration of each fiscal year, the governing board of each mosquito control district must submit to the Secretary a plan of procedure and operation for the next fiscal year in a form and manner prescribed by the Secretary. The Secretary shall have authority to approve, modify or take other appropriate action in regard to the plans. No contract may be entered into, program commenced or work begun or continued prior to the approval of the plan by the Secretary.

"§ 130A-357. *Bond issues.*—A mosquito control district shall have power to issue bonds and notes under the Local Government Bond Act.

"§ 130A-358. *Dissolution of certain mosquito control districts.*—Fifty-one percent (51%) or more of the resident freeholders of a mosquito control district which has no outstanding indebtedness may submit a petition for dissolution to the county board of commissioners in which all or the greater portion of the

resident freeholders of the district are located. The county board of commissioners shall notify the Department and the county board of commissioners of any other county or counties in which any portion of the district lies, of the receipt of the petition, and shall request the Department to hold a joint public hearing with the county commissioners concerning the dissolution of the district. The Department and the chairperson of the county board of commissioners shall name a time and place within the district for the public hearing. The chairperson of the county board of commissioners of the county in which all or the greater portion of the resident freeholders of the district are located shall give prior notice of the hearing by posting a notice at the courthouse door of each county and also by publication in a newspaper or newspapers published in the county or counties at least once a week for four successive weeks. In the event that all matters pertaining to the dissolution of the mosquito control district cannot be concluded at the hearing, the hearing may be continued to a time and place determined by the Department. If after the hearing, the Commission and the county commissioners shall deem it advisable to comply with the request of the petition, the Commission shall adopt a resolution dissolving the district.

"§ 130A-359 to 130A-360: Reserved for future codification purposes.

"ARTICLE 13.

"Nutrition.

"§ 130A-361. *Department to establish nutrition program.*—(a) The Department shall establish and administer a nutrition program to promote the public health by achieving and maintaining optimal nutritional status in the population through activities such as nutrition screening and assessment; dietary counseling and treatment; nutrition education; follow-up; referral; and the direct provision of food. The program shall also include, but not be limited to, establishing policies and standards for nutritional practices; monitoring and surveillance of nutritional status; promoting interagency cooperation, professional education and consultation; providing technical assistance; conducting and supporting field research; providing direct care; and advising State and private institutions and other State agencies and departments in the establishment of food, nutrition and food service management standards.

(b) The Department shall adopt rules necessary to implement the program.

"§ 130A-362 to 130A-365: Reserved for future codification purposes.

"ARTICLE 14.

"Dental Health.

"§ 130A-366. *Department to establish dental health program.*—(a) The Department shall establish and administer a dental health program for the delivery of preventive, educational and dental care services to preschool children, school-age children, and adults. The program shall include, but not be limited to, providing teacher training, adult and child education, consultation, screening and referral, technical assistance, community coordination, field research and direct patient care.

(b) The Commission shall adopt rules necessary to implement the program.

"§ 130A-367 to 130A-370: Reserved for future codification purposes.

"ARTICLE 15.

"State Center For Health Statistics.

"§ 130A-371. *State Center For Health Statistics established.*—A State Center for Health Statistics is established within the Department.

"§ 130A-372. *Definitions.*—The following definitions shall apply throughout this Article:

(1) 'Health data' means information relating to the health status of individuals, the availability of health resources and services, and the use and cost of these resources and services. The term shall not include vital records registered under the provisions of Article 4 of this Chapter.

(2) 'Medical records' means health data relating to the diagnosis or treatment of physical or mental ailments of individuals.

"§ 130A-373. *Authority and Duties.*—(a) The State Center for Health Statistics is authorized to:

(1) Collect, maintain and analyze health data on:

a. The extent, nature and impact of illness and disability on the population of the State;

b. The determinants of health and health hazards;

c. Health resources, including the extent of available work power and resources;

d. Utilization of health care;

e. Health care costs and financing; and

f. Other health or health-related matters; and

(2) Undertake and support research, demonstrations and evaluations respecting new or improved methods for obtaining data.

(b) The State Center for Health Statistics may collect health data on behalf of other governmental or nonprofit organizations.

(c) The State Center for Health Statistics shall collect data only on a voluntary basis except when there is specific legal authority to compel mandatory reporting of the health data. In collecting health data on a voluntary basis, the State Center for Health Statistics shall give the person a statement in writing:

(1) That the data is being collected on a voluntary basis and that the person is not required to respond; and

(2) The purposes for which the health data is being collected.

(d) Subject to the provisions of G.S. 130A-374, the State Center for Health Statistics may share health data with other persons, agencies and organizations.

(e) The State Center for Health Statistics shall:

(1) Take necessary action to assure that statistics developed under this Article are of high quality, timely and comprehensive, as well as specific and adequately analyzed and indexed; and

(2) Publish, make available and disseminate statistics on as wide a basis as practical.

(f) The State Center for Health Statistics shall coordinate health data activities within the State in order to eliminate unnecessary duplication of data collection and to maximize the usefulness of data collected by:

(1) Participating with State and local agencies in the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the State and local levels; and

(2) Undertaking and supporting research, development, demonstration and evaluation respecting the cooperative system.

"§ 130A-374. *Security of Health Data.*—(a) Medical records of individual patients shall be confidential and shall not be public records open to inspection.

The State Center for Health Statistics may disclose medical records of individual patients which identify the individual described in the record only if:

(1) The individual described in the medical record has authorized the disclosure; or

(2) The disclosure is for bona fide research purposes.

The Commission shall adopt rules providing for the use of the medical records for research purposes.

(b) The State Center for Health Statistics shall take appropriate measures to protect the security of health data collected by the Center, including:

(1) Limiting the access to health data to authorized individuals who have received training in the handling of this data;

(2) Designating a person to be responsible for physical security; and

(3) Developing and implementing a system for monitoring security.

"§ 130A-375 to 130A-376: Reserved for future codification purposes.

"ARTICLE 16.

"Postmortem Investigation and Disposition.

"Part 1. Postmortem Medicolegal Examinations and Services.

"§ 130A-377. *Establishment and maintenance of central and district offices.*—The Department shall establish and maintain a central office with appropriate facilities and personnel for postmortem medicolegal examinations. District offices, with appropriate facilities and personnel, may also be established and maintained if considered necessary by the Department for the proper management of postmortem examinations.

"§ 130A-378. *Qualifications and appointment of the Chief Medical Examiner.*—The Chief Medical Examiner shall be a forensic pathologist certified by the American Board of Pathology and licensed to practice medicine. The Chief Medical Examiner shall be appointed by the Secretary.

"§ 130A-379. *Duties of the Chief Medical Examiner.*—The Chief Medical Examiner shall perform postmortem medicolegal examinations as provided in this Part. The Chief Medical Examiner may, upon request, provide instruction in health science, legal medicine and other subjects related to his duties at The University of North Carolina, the North Carolina Justice Academy and other institutions of higher learning.

"§ 130A-380. *The Chief Medical Examiner's staff.*—The Chief Medical Examiner may employ qualified pathologists to serve as Associate and Assistant Medical Examiners in the central and district offices. The Associate and Assistant Medical Examiners shall perform duties assigned by the Chief Medical Examiner. Forensic chemists may be employed by the Chief Medical Examiner to provide toxicological and related support.

"§ 130A-381. *Additional services and facilities.*—In order to provide proper facilities for investigating deaths as authorized in this Part, the Chief Medical Examiner may arrange for the use of existing public or private laboratory facilities. The Chief Medical Examiner may contract with qualified persons to perform or to provide support services for autopsies and other studies and investigations.

"§ 130A-382. *County medical examiners; appointment; term of office; vacancies.*—One or more county medical examiners for each county shall be appointed by the Chief Medical Examiner for a three-year term. County medical examiners shall be appointed from a list of physicians licensed to

practice medicine in this State submitted by the medical society of the county in which the appointment is to be made. If no names are submitted by the society, the Chief Medical Examiner shall appoint one or more medical examiners from physicians in the county licensed to practice medicine in this State. In the event no licensed physician in a county accepts an appointment, the Chief Medical Examiner may appoint one or more physicians licensed to practice medicine in this State from other counties or the local registrar, deputy registrar, subregistrar or coroner. In the event a medical examiner is unable to serve in a particular case or for a temporary period of time, the Chief Medical Examiner shall designate a physician licensed to practice medicine in this State, the local registrar, deputy registrar, subregistrar or coroner. A medical examiner may serve more than one county. The Chief Medical Examiner may take jurisdiction in any case or appoint another medical examiner to do so.

"§ 130A-383. *Medical examiner jurisdiction.*—(a) Upon the death of any person resulting from violence, poisoning, accident, suicide or homicide; occurring suddenly when the deceased had been in apparent good health or when unattended by a physician; occurring in a jail, prison, correctional institution or in police custody; or occurring under any suspicious, unusual or unnatural circumstance, the medical examiner of the county in which the body of the deceased is found shall be notified by a physician in attendance, hospital employee, law enforcement officer, funeral home employee, emergency medical technician, relative or by any other person having suspicion of such a death. No person shall disturb the body at the scene of such a death until authorized by the medical examiner unless in the unavailability of the medical examiner it is determined by the appropriate law enforcement agency that the presence of the body at the scene would risk the integrity of the body or provide a hazard to the safety of others. For the limited purposes of this Part, expression of opinion that death has occurred may be made by a nurse, an emergency medical technician or any other competent person in the absence of a physician.

(b) The discovery of anatomical material suspected of being part of a human body shall be reported to the medical examiner of the county in which the material is found.

"§ 130A-384. *Notification concerning out-of-state body.*—When a body is brought into this State for disposal and there is reason to believe either that the death was not investigated properly or that there is not an adequate certificate of death, the body shall be reported to a medical examiner in the county where the body resides or to the Chief Medical Examiner. These deaths may be investigated by the same procedure as deaths occurring in this State under G.S. 130A-383.

"§ 130A-385. *Duties of medical examiner upon receipt of notice; reports; copies.*—(a) Upon receipt of a notification under G.S. 130A-383, the medical examiner shall take charge of the body, make inquiries regarding the cause and manner of death, reduce the findings to writing and promptly make a full report to the Chief Medical Examiner on forms prescribed for that purpose. The Chief Medical Examiner or the county medical examiner is authorized to inspect and copy the medical records of the decedent whose death is under investigation. The Chief Medical Examiner shall provide directions as to the nature, character and extent of an investigation and appropriate forms for the required reports. The facilities of the central and district offices and their staff services

shall be available to the medical examiners and designated pathologists in their investigations.

(b) The medical examiner shall complete a certificate of death, stating the name of the disease which in his opinion caused death. If the death was from external causes, the medical examiner shall state on the certificate of death the means of death, and whether, in the medical examiner's opinion, the manner of death was accident, suicide, homicide or undetermined. The medical examiner shall also furnish any information as may be required by the State Registrar of Vital Statistics in order to properly classify the death.

(c) The Chief Medical Examiner shall have authority to amend a medical examiner death certificate.

(d) A copy of the report of the medical examiner investigation may be forwarded to the appropriate district attorney.

"§ 130A-386. *Subpoena authority.*—The Chief Medical Examiner and the county medical examiners are authorized to issue subpoenas for the attendance of persons and for the production of documents as may be required by their investigation.

"§ 130A-387. *Fees.*—For each investigation and prompt filing of the required report, the medical examiner shall receive a fee paid by the State. However, if the deceased is a resident of the county in which the death occurred, that county shall pay the fee. The fee shall be in an amount determined reasonable and appropriate by the Secretary, but shall not exceed fifty dollars ($50.00).

"§ 130A-388. *Medical examiner's permission necessary before embalming, burial and cremation.*—(a) No person knowing or having reason to know that a death may be under the jurisdiction of the medical examiner pursuant to G.S. 130A-383 or G.S. 130A-384, shall embalm, bury or cremate the body without the permission of the medical examiner.

(b) A dead body shall not be cremated or buried at sea unless a medical examiner certifies that he has inquired into the cause and the manner of death and has the opinion that no further examination is necessary. This subsection shall not apply to deaths occurring less than 24 hours after birth or to deaths of patients resulting only from natural disease and occurring in a licensed hospital unless the death falls within the jurisdiction of the medical examiner under G.S. 130A-383 or G.S. 130A-384. The Commission is authorized to adopt rules creating additional exceptions to this subsection. For making this certification, the medical examiner shall be entitled to a fee in an amount determined reasonable and appropriate by the Secretary, not to exceed fifty dollars ($50.00), to be paid by the applicant.

"§ 130A-389. *Autopsies.*—(a) If, in the opinion of the medical examiner investigating the case or of the Chief Medical Examiner, it is advisable and in the public interest that an autopsy or other study be made; or, if an autopsy or other study is requested by the district attorney of the county or by any superior court judge, an autopsy or other study shall be made by the Chief Medical Examiner or by a competent pathologist designated by the Chief Medical Examiner. A complete autopsy report of findings and interpretations, prepared on forms designated for the purpose, shall be submitted promptly to the Chief Medical Examiner. Copies of the report shall be furnished the authorizing medical examiner, district attorney or superior court judge. A copy of the report shall be furnished to other persons upon request. A fee for the autopsy or other study shall be paid by the State. However, if the deceased is a

resident of the county in which the death occurred, that county shall pay the fee. The fee shall be in an amount determined reasonable and appropriate by the Secretary, but shall not exceed four hundred dollars ($400.00).

(b) In deaths where the Chief Medical Examiner and the medical examiner investigating the case do not deem it advisable and in the public interest that an autopsy be performed, but the next-of-kin of the deceased requests that an autopsy be performed, the Chief Medical Examiner or a designated pathologist may perform the autopsy and the cost shall be paid by the next-of-kin.

(c) When the next-of-kin of a decedent whose death does not fall under G.S. 130A-383 or G.S. 130A-384 requests that an autopsy be performed, the Chief Medical Examiner or a designated pathologist may perform that autopsy and the cost shall be paid by the next-of-kin.

(d) The report of autopsies performed pursuant to subsections (b) and (c) shall be a part of the decedents' medical records and therefore not public records open to inspection.

"§ 130A-390. *Exhumations.*—(a) In any case of death described in G.S. 130A-383 or G.S. 130A-384 where the body is buried without investigation by a medical examiner as to the cause and manner of death or where sufficient cause develops for further investigation after a body is buried as determined by a county medical examiner or the Chief Medical Examiner, the Chief Medical Examiner shall authorize an investigation and send a report of the investigation with recommendations to the appropriate district attorney. The district attorney may forward the report to the superior court judge and petition for disinterment. The judge may order that the body be exhumed and that an autopsy be performed by the Chief Medical Examiner. A report of the autopsy and other pathological studies shall be delivered to the judge. The cost of the exhumation, autopsy, transportation and disposition of the body shall be paid by the State. However, if the deceased is a resident of the county in which death occurred, that county shall pay the cost.

(b) Any person may petition a judge of the superior court for an order of exhumation. Upon showing of sufficient cause, the judge may order the body exhumed. The cost incurred shall be assigned to the petitioner.

(c) Without applying for a judicial exhumation order, the next-of-kin of a deceased person may have the remains exhumed, examined by the Chief Medical Examiner and redisposed. The cost shall be paid by the next-of-kin.

"§ 130A-391. *Corneal tissue removal.*—(a) A medical examiner or a regional pathologist may provide corneal tissue from a decedent under the jurisdiction of the medical examiner or the regional pathologist to the North Carolina Eye and Human Tissue Bank or other donee specified in G.S. 130A-405 under the following conditions:

(1) a. Consent from next-of-kin is obtained in accordance with G.S. 130A-404; or

b. A reasonable attempt to determine next-of-kin has failed; or

c. The medical examiner or regional pathologist believes that there are no next-of-kin to be contacted for consent; and

(2) The removal of the corneal tissue for transplant will not interfere with any subsequent course of investigation or autopsy or alter the postmortem facial appearance.

(b) If the requirements of subsection (a) have been met, neither the medical examiner, the regional pathologist, nor the donee shall be liable in any civil

action brought by the next-of-kin on the contention that authorization of next-of-kin was required to remove the corneal tissue.

"§ 130A-392. *Reports and records as evidence.*—Reports of investigations made by a county medical examiner or by the Chief Medical Examiner and toxicology and autopsy reports made pursuant to this Part may be received as evidence in any court or other proceeding. Copies of records, photographs, laboratory findings and records in the Office of the Chief Medical Examiner, any county medical examiner or designated pathologist, when duly certified, shall have the same evidentiary value as the original.

"§ 130A-393. *Rules.*—The Commission shall adopt rules to carry out the intent and purpose of this Part.

"§ 130A-394. *Coroner to hold inquests.*—In every case requiring the medical examiner to be notified, as provided by G.S. 130A-198, the coroner shall be notified by the medical examiner, and the coroner shall hold an inquest and preliminary hearing in those instances as required in G.S. 152-7. The coroner shall file a written report of his investigation with the district attorney of the superior court and the medical examiner. The body shall remain in the custody and control of the medical examiner. However, if a county has abolished the office of coroner pursuant to the provisions of Chapter 152A at a time when Chapter 152A was in effect in the county: (i) The provisions of this Article relating to coroner shall not be applicable to the county, (ii) the provisions of G.S. 152A-9 shall remain in full force and effect in the county, and (iii) Chapter 152 of the General Statutes shall not be applicable in the county.

"§ 130A-395 to 130A-397: Reserved for future codification purposes.

"Part 2. Autopsies.

"§ 130A-398. *Limitation on right to perform autopsy.*—The right to perform an autopsy shall be limited to those cases in which:

(1) The Chief Medical Examiner or a county medical examiner, acting pursuant to G.S. 130A-389, directs that an autopsy be performed;

(2) The Commission of Anatomy, acting pursuant to G.S. 130A-415, has given written consent for an autopsy to be performed on an unclaimed body;

(3) A prosecuting officer or district attorney, acting pursuant to G.S. 15-7 in case of homicide, directs that an autopsy be performed;

(4) The decedent directs in writing prior to death that an autopsy be performed upon the occurrence of the decedent's death;

(5) The personal representative of the estate of the decedent requests that an autopsy be performed upon the decedent; or

(6) Any of the following persons, in order of priority, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual opposition by a member of the same or prior class, authorizes an autopsy to be performed:

a. The spouse;

b. Any adult child or stepchild;

c. Any parent or stepparents;

d. Any adult sibling;

e. A guardian of the person of the decedent at the time of the decedent's death;

f. Any relative or person who accepts responsibility for final disposition of the body by other customary and lawful procedures;

g. Any person under obligation to dispose of the body.

"§ 130A-399. *Postmortem examination of inmates of certain public institutions.*—Upon the death of any inmate of an institution maintained by the State, or a city, county or other political subdivision of the State, for the care of the sick, mentally ill or mentally retarded, the administrator of the institution in which the death occurs is empowered to authorize a postmortem examination of the deceased person. The examination shall be of a scope and nature necessary to promote knowledge of the human organism and its disorders.

"§ 130A-400. *Written consent for postmortem examinations required.*—An administrator of an institution shall not authorize a postmortem examination described in G.S. 130A-399 without first securing the written consent of the deceased person's spouse, one of the next-of-kin or nearest known relative, or other person charged by law with the duty of burial, in the order named and as known. A copy of the written consent shall be filed in the office of the administrator of the institution where the inmate died.

"§ 130A-401. *Postmortem examinations in certain medical schools.*—The postmortem examinations and studies authorized by G.S. 130A-399 may be made in the laboratories of medical schools of colleges and universities on conditions established by the administrator.

"Part 3. Uniform Anatomical Gift Act.

"§ 130A-402. *Short title.*—This Part may be cited as the Uniform Anatomical Gift Act.

"§ 130A-403. *Definitions.*—The following definitions shall apply throughout this Part:

(1) 'Bank or storage facility' means a facility licensed, accredited or approved under the laws of any state for storage or distribution of a human body or its parts.

(2) 'Decedent' means a deceased individual and includes a stillborn infant or fetus.

(3) 'Donor' means an individual who makes a gift of all or part of the individual's body.

(4) 'Hospital' means a hospital licensed, accredited or approved under the laws of any state and a hospital operated by the United States government, a state or its subdivision, although not required to be licensed under state laws.

(5) 'Part' means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body.

(6) 'Physician' or 'surgeon' means a physician or surgeon licensed to practice medicine under the laws of any state.

(7) 'State' includes any state, district, commonwealth, territory, insular possession and any other area subject to the legislative authority of the United States of America.

(8) 'Qualified individual' means any of the following individuals who has completed a course in eye enucleation and has been certified as competent to enucleate eyes by an accredited school of medicine in this State:

a. An embalmer licensed to practice in this State;

b. A physician's assistant approved by the Board of Medical Examiners pursuant to G.S. 90-18(13);

c. A registered or a licensed practical nurse licensed by the Board of Nursing pursuant to Article 9 of Chapter 90 of the General Statutes;

d. A student who is enrolled in an accredited school of medicine operating within this State and who has completed two or more years of a course of study leading to the awarding of a degree of doctor of medicine.

"§ 130A-404. *Persons who may make an anatomical gift.*—(a) An individual of sound mind and 18 years of age or more may give all or any part of that individual's body for any purpose specified in G.S. 130A-405. The gift shall take effect upon death.

(b) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in G.S. 130A-405.

(1) The spouse;

(2) An adult child;

(3) Either parent;

(4) An adult sibling;

(5) A guardian of the person of the decedent at the time of decedent's death;

(6) Any other person authorized or under obligation to dispose of the body.

(c) The persons authorized by subsection (b) may make the gift after or immediately before death. However, the guardian of the person of a ward may make the gift at any time during the guardianship and the gift shall become effective upon the death of the ward unless the guardianship terminated before death.

(d) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift.

(e) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(f) The rights of the donee created by the gift are paramount to the rights of others except as provided by G.S. 130A-409(d).

"§ 130A-405. *Persons who may become donees; purposes for which anatomical gifts may be made.*—The following persons may become donees of gifts of a human body or its parts for the purposes stated:

(1) A hospital, surgeon or physician for medical or dental education, research, advancement of medical or dental science, therapy or transplantation;

(2) An accredited medical or dental school, college or university for education, research, advancement of medical or dental science or therapy;

(3) A bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation;

(4) A specified individual for therapy or transplantation needed by that individual; or

(5) The Commission of Anatomy for the distribution of a human body or its parts for the purpose of promoting the study of anatomy in this State.

"§ 130A-406. *Manner of making anatomical gifts.*—(a) A gift of all or part of the body under G.S. 130A-404(a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is valid and effective.

(b) A gift of all or part of the body under G.S. 130A-404(a) may also be made by a document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the individual, must be signed by the donor in the presence of two witnesses who must sign the document in the donor's presence. If the donor cannot sign, the document may be signed for the donor at the direction and in the presence of the donor and in the presence of two witnesses who must sign the document in the donor's presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee.

(d) The donor may designate by will, card or other document of gift the surgeon or physician to carry out the appropriate procedures, subject to the provisions of G.S. 130A-409(b). In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for that purpose.

(e) In respect to a gift of an eye, a qualified individual may enucleate eyes for the gift after proper certification of death by a physician and upon the express direction of a physician other than the one who certified the death of the donor.

(f) A gift by a person designated in G.S. 130A-404(b) shall be made by a document signed by the donor or made by the donor's telegraphic, recorded telephonic, or other recorded message. However, a guardian of the person of a ward who makes a gift of all or any part of the ward's body prior to the ward's death shall make the gift by a document signed by the guardian and filed with the clerk of court having jurisdiction over the guardian.

(g) The making of a gift shall be deemed to include an authorization to the donee to review any medical records of the donor after the death of the donor.

"§ 130A-407. *Delivery of document of gift.*—If the gift is made by the donor or the guardian to a specified donee, the will, card or other document or executed copy may be delivered to the donee at any time to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card or other document or executed copy may be deposited in a hospital, bank or storage facility, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's or ward's death, the person in possession shall produce the document for examination.

"§ 130A-408. *Amendment or revocation of the gift.*—(a) If the will, card or other document or executed copy has been delivered to a specified donee, the donor may amend or revoke the gift by:

(1) The execution and delivery to the donee of a signed statement;

(2) An oral statement made in the presence of two persons and communicated to the donee;

(3) A statement during a terminal illness or injury addressed to an attending physician and communicated to the donee; or

(4) A signed card or document found on the individual or in the individual's effects, and made known to the donee.

(b) A guardian may amend or revoke the gift by the execution and delivery to the donee of a signed statement.

(c) Any document of gift which has not been delivered to the donee may be revoked by the donor or guardian in the manner set out in subsection (a) or by destruction, cancellation or mutilation of the document and all executed copies.

(d) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills or as provided in subsection (a).

"§ 130A-409. *Rights and duties at death.*—(a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, the donee shall, subject to the terms of the gift, authorize embalming and the use of the body in funeral services, upon request of the surviving spouse or other person listed in the order stated in G.S. 130A-404(b). If the gift is of a part of the body, the donee, upon the death of the donor or ward and prior to embalming, shall, within 24 hours, cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next-of-kin or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who attends the donor or ward at death, or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(c) A person who acts with due care in accord with the terms of this Part or the anatomical gift laws of another state is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for the act.

(d) The provisions of this Part are subject to the laws of this State prescribing powers and duties with respect to autopsies.

"§ 130A-410. *Use of tissue declared a service; standard of care; burden of proof.*—The procurement, processing, distribution or use of whole blood, plasma, blood products, blood derivatives and other human tissues such as corneas, bones or organs for the purpose of injecting, transfusing or transplanting any of them into the human body is declared to be, for all purposes, the rendition of a service by every participating person or institution. Whether or not any remuneration is paid, the service is declared not to be a sale of whole blood, plasma, blood products, blood derivatives or other human tissues, for any purpose. No person or institution shall be liable in warranty, express or implied, for the procurement, processing, distribution or use of these items but nothing in this section shall alter or restrict the liability of a person or institution in negligence or tort in consequence of these services.

"§ 130A-411. *Giving of blood by persons 17 years of age or more.*—A person who is 17 years of age or more may give or donate blood to an individual, hospital, blood bank or blood collection center without the consent of the parent or parents or guardian of the donor. It shall be unlawful for a person under the age of 18 years to sell blood.

"§ 130A-412. *Uniformity of interpretation.*—This Part shall be so construed to effectuate its general purpose to make uniform the law of those states which enact it.

"Part 4. Human Tissue Donation Program.

"§ 130A-413. *Coordinated human tissue donation program; legislative findings and purpose; program established.*—(a) The General Assembly finds

that there is an increasing need for human tissues for transplantation purposes; that there is a continuing need for human tissues for the purposes of medical education and research; and that these needs are not being sufficiently filled at the present because of a shortage of human tissue donors. The General Assembly establishes a coordinated human tissue donation program to facilitate the acquisition and distribution of human tissues to promote the public health. For the purposes of this Part, the term 'human tissue' includes cadavers.

(b) The Department shall establish and administer a coordinated program among departments and agencies of the State and all groups, both public and private, involved in the acquisition and distribution of human tissue to:

(1) Increase awareness of the need for human tissue donations and of the methods by which these donations are made;

(2) Increase awareness of the existing programs of human tissue transplantation and of medical research and education which employs human tissue and share information with the public;

(3) Study the problems surrounding the acquisition and distribution of human tissue and make suggestions for their solution;

(4) Disseminate information to health and other professionals concerning the techniques of human tissue retrieval and transplantation, the legalities involved in making anatomical gifts; and

(5) Arrange for the quick and precise transportation of donated human tissue in emergency transplant situations.

(c) All departments and agencies of the State and county and municipal law enforcement agencies shall cooperate with the coordinated human tissue donation program instituted by the Department.

"§ 130A-414. *Human Tissue Advisory Council.*—(a) A Human Tissue Advisory Council is established to advise the Secretary in the planning, organization, administration and evaluation of the coordinated Human Tissue Donation Program. Members of the Council shall be appointed as follows:

(1) The Secretary shall appoint a representative from each of the following institutions:

a. The Bowman Gray School of Medicine of Wake Forest University,

b. The Duke University School of Medicine,

c. The North Carolina Association of the Blind,

d. The North Carolina Eye and Human Tissue Bank,

e. The North Carolina Funeral Directors' Association,

f. The North Carolina Hospital Association,

g. The National Kidney Foundation of North Carolina, Inc.,

h. The North Carolina Medical Society,

i. The University of North Carolina at Chapel Hill School of Medicine,

j. The East Carolina University School of Medicine; and

(2) A representative of the Secretary;

(3) A representative of the Chief Medical Examiner;

(4) One member appointed by the Speaker of the House of Representatives; and

(5) One member appointed by the President of the Senate.

(b) Members shall serve terms of three years except that members may be appointed for terms of less than three years to achieve a staggered-term structure. The Council shall elect a chairperson from among its membership and shall meet at least two times a year and upon the request of the Secretary.

Members shall serve without compensation but shall be reimbursed for travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

"Part 5. Disposition of Unclaimed Bodies.

"§ 130A-415. *Unclaimed bodies; disposition.*—(a) All officers, employees and agents of the State or of any unit of local government in the State; all undertakers doing business within the State; or any person having charge or control of an unclaimed body shall immediately notify and, upon the request of the Commission of Anatomy, deliver the dead body to the Commission of Anatomy. The Commission of Anatomy may take and remove the dead body. No reward or fee shall be paid for notifying the Commission of Anatomy. The person having charge or control of an unclaimed body shall make reasonable efforts to notify any interested person of the decedent's death. The recipient to which the Commission of Anatomy delivers the body shall pay all expenses for the embalming and delivery of the body, and for the reasonable efforts made to notify the persons.

(b) For the purposes of this Part, an unclaimed body means a dead body which is not claimed for final disposition and which, as determined by the person having charge or control of the dead body, probably will not be claimed for final disposition within 10 days of the deceased's death. The unclaimed body shall remain in the charge or control of the person for a period of 10 days unless the period is shortened by the county director of social services upon determination that the dead body will not be claimed for final disposition within 10 days of the decedent's death. Upon expiration of the period, the person having charge or control of the unclaimed body will deliver it to the Commission of Anatomy at a time and place specified by the Commission of Anatomy or permit the Commission of Anatomy to take and remove the body.

(c) All dead bodies not claimed for final disposition within 10 days of the decedent's death may be received and delivered by the Commission of Anatomy pursuant to the authority contained in G.S. 143B-204 and this Part and in accordance with its rules. All interests in and rights to dead bodies unclaimed for final disposition within 10 days of the decedent's death and received by the Commission of Anatomy shall vest in the Commission of Anatomy.

(d) No autopsy shall be performed on an unclaimed body without the written consent of the Commission of Anatomy except that written consent is not required for an autopsy performed pursuant to Part 2 of this Article.

(e) Due caution shall be taken to shield the unclaimed body from public view.

(f) Notwithstanding anything contained in this section, an unclaimed body shall not mean a dead body for which the deceased has made a gift pursuant to Part 3 of this Article.

(g) Nothing in this Part shall require the officers, employees or agents of a county to notify the Commission of Anatomy regarding the bodies of minors who were in the custody of the county at the time of death and whose final disposition will be arranged by the county. In the absence of notification, the expenses of the final disposition shall be a charge upon the county having custody.

(h) The provisions of this Part shall not apply to bodies within the jurisdiction of the medical examiner under G.S. 130A-383 or G.S. 130A-384.

"§ 130A-416. *Commission of Anatomy rules.*—The Commission of Anatomy is authorized to adopt rules necessary to implement the provisions of this Part.

"Part 6. Final Disposition or Transportation of Deceased Migrant

Agricultural Workers and Their Dependents.

"§ 130A-417. *Definitions.*—The following definitions shall apply throughout this Part:

(1) 'Dependent' means child, grandchild, spouse or parent of a migrant agricultural worker who moves with the migrant agricultural worker in response to the demand for seasonal agricultural labor.

(2) 'Migrant agricultural worker' means a worker who moves in response to the demand for seasonal agricultural labor.

"§ 130A-418. *Deceased migrant agricultural workers and their dependents.*—(a) Notwithstanding any other provisions of law, a person having knowledge of the death of a migrant agricultural worker or a worker's dependent shall without delay report the death to the department of social services in the county in which the body is located together with any information regarding the deceased including identity, place of employment, permanent residence, and the name, address and telephone number of any relative and any interested person. The county department of social services shall, within a reasonable time of receiving this report, transmit to the Department notice of the death and information received upon notification. The Department shall make reasonable effort to inform the next-of-kin and any interested person of the death.

(b) If the identity of the person cannot be determined within a reasonable period of time, or if the body is unclaimed 10 days after death, the body shall be offered to the Commission of Anatomy and, upon its request, shall be delivered to the Commission of Anatomy. If the Commission of Anatomy does not request an unclaimed body offered it or the estate, and if the relatives or other interested persons claiming the body are unable to provide for the final disposition of the migrant agricultural worker or dependent, the Department is authorized and directed to arrange for the final disposition of the decedent.

(c) If the estate, relatives or interested persons are able to provide for final disposition but are unable to effect the transportation of the decedent to the decedent's legal residence or the legal residence of the relatives or interested persons, the Department is authorized and directed to allocate a sum of not more than two hundred dollars ($200.00) to defray the transportation expenses.

(d) The Secretary is authorized to adopt rules necessary to implement this section."

Sec. 3. Article 14B of Chapter 90 of the General Statutes is repealed.

Sec. 4. Article 14C of Chapter 90 of the General Statutes is repealed.

Sec. 5. Article 15 of Chapter 90 of the General Statutes is repealed.

Sec. 6. Article 15A of Chapter 90 of the General Statutes is repealed.

Sec. 7. Article 5 of Chapter 72 of the General Statutes is repealed.

Sec. 8. Part 7 of Article 34 of Chapter 106 of the General Statutes is repealed.

Sec. 9. G.S. 67-32 is repealed.

Sec. 10. G.S. 143B-209 is repealed.

Sec. 11. G.S. 90-187.10(8) is rewritten to read as follows:

"(8) Any certified rabies vaccinator appointed, certified and acting with the provisions of G.S. 130A-186."

Sec. 12. G.S. 106-141 is amended by adding a new subsection (c) as follows:

"(c) The Commissioner of Agriculture is authorized to delegate embargo authority concerning food and drink pursuant to G.S. 106-125 to the Secretary of Human Resources and to local health directors."

Sec. 13. G.S. 105-164.14 is amended in line 24 of subsection (c) by inserting between the words "statutes," and "regional" the words "district health departments".

Sec. 14. The first registered nurse member of a local board of health appointed pursuant to this act shall assume office upon expiration of the term of the first public member whose term expires on or after January 1, 1984. The first licensed optometrist member of a district board of health appointed pursuant to this act shall assume office upon expiration of the term of the second public member whose term expires on or after January 1, 1984. The first licensed veterinarian member of a district board of health appointed pursuant to this act shall assume office upon expiration of the term of the third public member whose term expires on or after January 1, 1984.

Sec. 15. G.S. 143B-142 is rewritten to read as follows:

"§ 143B-142. *Commission for Health Services; creation, powers and duties.*—(a) The Commission for Health Services of the Department of Human Resources is created with the authority and duty to adopt rules to protect and promote the public health.

(b) The Commission for Health Services is authorized to adopt rules necessary to implement the public health programs administered by the Department of Human Resources as provided in Chapter 130A of the General Statutes.

(c) The Commission for Health Services shall adopt rules:

(1) For the operation of home health agencies as provided in Part C of Article 6 of Chapter 131E of the General Statutes;

(2) Establishing standards for approving sewage-treatment devices and holding tanks for marine toilets as provided in G.S. 75A-6(o);

(3) Establishing specifications for sanitary privies for schools where water-carried sewage facilities are unavailable as provided in G.S. 115C-522;

(4) Establishing requirements for the sanitation of local confinement facilities as provided in G.S. 153-53.4; and

(5) Governing environmental impact statements and information required in applications to determine eligibility for water supply systems under the provisions of the Clean Water Bond Act.

(d) The Commission is authorized to create:

(1) Metropolitan water districts as provided in G.S. 162A-33;

(2) Sanitary districts as provided in Part 2 of Article 2 of Chapter 130A of the General Statutes; and

(3) Mosquito control districts as provided in Part 2 of Article 12 of Chapter 130A of the General Statutes.

(e) Rules adopted by the Commission for Health Services shall be enforced by the Department of Human Resources."

Sec. 16. This act shall not affect any civil or criminal litigation pending on the effective date of this act. Any act committed prior to the effective date of this act which violated any provision of the statutes repealed or amended by this act shall be subject to enforcement, prosecution, conviction and

punishment as if this act had not been enacted. Any claim arising under any provisions of the statutes repealed or amended by this act prior to the effective date of this act shall remain valid as if this act had not been enacted.

Sec. 16.1. If any bill ratified by the 1983 General Assembly, whether ratified before or after this bill, amends a part of Chapter 130 of the General Statutes which is repealed by this bill, the bill will be construed to amend the appropriate part of the new Chapter 130A of the General Statutes enacted by this bill.

Sec. 17. This act shall become effective January 1, 1984, except that the provision in G.S. 130A-185 requiring the vaccination of all cats over four months of age shall become effective July 1, 1984. However, upon ratification of this act, the Commission for Health Services is authorized to adopt rules under the provisions of this act; provided, the rules shall not be effective before the effective date of the act.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. B. 881 CHAPTER 892

AN ACT TO ALLOW THE DARE COUNTY AIRPORT AUTHORITY TO ADOPT ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 503, Session Laws of 1971 is amended by adding a new subdivision to read:

"(4a) To adopt ordinances applying to lands or property owned by or administered by the Authority to the same extent that Dare County could adopt such ordinances if it owned or administered the lands or property."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 1472 CHAPTER 893

AN ACT TO ALLOW THE CITY OF REIDSVILLE TO SELL CERTAIN PROPERTY TO ELTON TRENT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 14-234, Elton Trent may bid on and purchase from the City of Reidsville if he is the highest bidder, the following described property: The property is described as being 6.157 acres as shown on a plat of survey prepared by Obie M. Chambers and Associates, dated March 1983 for the City of Reidsville, which plat is on file and may be examined at the City Clerk's office of the City of Reidsville, 230 West Morehead Street between the hours of 8:30 a.m. and 5:00 p.m. week days.

Sec. 2. Elton Trent may not vote to accept or confirm bids on the property described in Section 1 of this act if he made a bid.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

S. B. 291 **CHAPTER 894**

AN ACT RELATING TO THE PREVENTION OF CHILD ABUSE AND NEGLECT AND ESTABLISHING A CHILDREN'S TRUST FUND FOR THAT PURPOSE.

Whereas, the large number of confirmed cases of child abuse and neglect places an enormous burden upon the citizens and government of North Carolina because victimized and maltreated children often bear the scars of abuse and neglect for many years and even throughout their lives and because siblings, parents and entire families suffer from the disruption and turmoil which accompany incidents of child abuse and neglect; and

Whereas, the taxpaying public labors under the heavy economic burden of paying for the destructive effects of child maltreatment including subsequent juvenile delinquency, educational problems, adult criminal activity, mental illness, and poor parenting behavior; and

Whereas, the General Assembly recognizes that child abuse and neglect is a problem that should be approached through prevention efforts and that society presently possesses the ability to prevent many of these problems before the suffering and social costs begin to mount; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The following new Article is added to Chapter 110 of the General Statutes:

"Article 10.

"Prevention of Child Abuse and Neglect.

"§ 110-145. *Purpose.*—It is the expressed intent of this Article to make the prevention of child abuse and neglect as defined in G.S. 7A-517, a priority of this State and to establish the Children's Trust Fund as a means to that end.

"§ 110-146. *Council on Prevention of Child Abuse and Neglect.*—(a) For purposes of implementing this program, the State Board of Education shall designate the Interagency Advisory Council on Community Schools in the Department of Public Instruction as the Advisory Council on Prevention of Child Abuse and Neglect, hereinafter called the Council.

(b) Staff and support services for implementing this program shall be provided by the Division of Community Schools in the Department of Public Instruction.

(c) In order to carry out the purposes of this Article:

(1) The Council shall, with the assistance of the Division of Community Schools, review applications and make recommendations to the State Board of Education concerning the awarding of contracts pursuant to this Article.

(2) The State Board of Education shall contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals to operate community-based educational and service programs designed to prevent the occurrence of child abuse and neglect. Every contract entered into by the State Board of Education shall contain provisions that at least twenty-five percent (25%) of the total funding required for a program be provided by the administering organization in the form of in-kind or other services and that a mechanism for evaluation of services provided under the contract be included in the services to be

performed. In addition, every proposal to the Council for funding pursuant to this Article shall include assurances that the proposal has been forwarded to the local Department of Social Services for comment so that the Council may consider coordination and duplication of effort on the local level as criteria in making recommendations to the State Board of Education.

(3) The State Board of Education shall, with the assistance of the Division of Community Schools, develop appropriate guidelines and criteria for awarding contracts pursuant to this Article. These criteria shall include, but not be limited to: documentation of need within the proposed geographical impact area; diversity of geographical areas of programs funded pursuant to this Article; demonstrated effectiveness of the proposed strategy or program for preventing child abuse and neglect; reasonableness of implementation plan for achieving stated objectives; utilization of community resources including volunteers; provision for an evaluation component that will provide outcome data; plan for dissemination of the program for implementation in other communities; and potential for future funding from private sources.

(4) The State Board of Education shall, with the assistance of the Division of Community schools, develop guidelines for regular monitoring of contracts awarded pursuant to this Article in order to maximize the investments in prevention programs by the Children's Trust Fund and to establish appropriate accountability measures for administration of contracts.

(5) The State Board of Education shall, with the assistance of the Division of Community Schools, report to the General Assembly at the time of its convening on odd-numbered years the use of these funds and shall develop a State plan for the prevention of child abuse and neglect for submission to the Governor, the President of the Senate, and the Speaker of the House no later than January 1, 1987.

(d) To assist in implementing this Article, the State Board of Education may accept contributions, grants, or gifts in cash or otherwise from persons, associations, or corporations. All monies received by the State Board of Education from contributions, grants or gifts and not through appropriation by the legislature shall be deposited in the Children's Trust Fund. Disbursements of the funds shall be on the authorization of the State Board of Education or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control, such funds shall be subject in all respects to State law and regulations, but no appropriation shall be required to permit expenditure of the funds.

"§ 110-147. *Programs.*—(a) Programs contracted for under this Article are intended to prevent child abuse and neglect. Child abuse and neglect prevention programs are defined to be those programs and services which impact on children and families before any substantiated incident of child abuse or neglect has occurred. Such programs may include, but are not limited to:

(1) Community-based educational programs on prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, and coping with family stress; and

(2) Community-based programs relating to crisis care, aid to parents, and support groups for parents and their children experiencing stress within the family unit.

(b) No more than twenty percent (20%) of each year's total awards may be utilized for funding State level programs to coordinate community-based programs.

"§ 110-148. *Children's Trust Fund.*—There is established a fund to be known as the 'Children's Trust Fund', in the State Treasurer's office, which shall be funded pursuant to G.S. 161-11.1, and which shall be used by the State Board of Education to fund child abuse and neglect prevention programs so authorized by this Article."

Sec. 2. G.S. 161-10(a) is amended by inserting immediately after the phrase "G.S. 130-40" the phrase "or G.S. 161-11.1".

Sec. 3. G.S. 161-10(a)(2) is amended by deleting the phrase "For issuing a license - ten dollars ($10.00)" and by substituting the phrase "For issuing a license - fifteen dollars ($15.00)".

Sec. 4. Article 1 of Chapter 161 of the General Statutes is amended by adding a new section to the end to read:

"§ 161-11.1. *Fees for Children's Trust Fund.*—Five dollars ($5.00) of each fee collected by a register of deeds on or after October 1, 1983, for issuance of a marriage license pursuant to G.S. 161-10(a)(2) shall be forwarded, as soon as practical but no later than 60 days of collection by the register of deeds, to the county finance officer, who shall forward same to the State Treasurer for deposit in the Children's Trust Fund."

Sec. 5. There is appropriated from the Children's Trust Fund established pursuant to G.S. 110-148 to the State Board of Education, Department of Public Instruction for the 1983-85 biennium all monies in the Children's Trust Fund to provide grants from the State Board of Education upon the recommendations of the Advisory Council on Child Abuse and Neglect to fund prevention programs pursuant to Article 10 of Chapter 110 of the General Statutes.

Sec. 6. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 260 CHAPTER 895

AN ACT TO EXCLUDE FROM GROSS INCOME AMOUNTS PAID BY AN EMPLOYER FOR DEPENDENT CARE ASSISTANCE PROVIDED FOR THE BENEFIT OF THE EMPLOYEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-141(b)(9) is amended as follows:

1. by deleting the word "and" at the end of paragraph a.;

2. by deleting the period at the end of paragraph b. and inserting the phrase "; and" in lieu thereof; and

3. by adding a new paragraph to read:

"c. Amounts paid or incurred by an employer for dependent care assistance provided to the employee to the extent these amounts are excluded from gross income under Section 129 of the Internal Revenue Code of 1954 as amended."

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1983.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 489 CHAPTER 896

AN ACT TO CLARIFY, RESTRICT AND AMEND THE LAW RELATING TO THE OPERATION OF BINGO GAMES AND RAFFLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-289, G.S. 14-290, G.S. 14-291, G.S. 14-291.1 and G.S. 14-292 are each amended by deleting the reference to "G.S. 14-292.1", and inserting in lieu thereof "Part 2 of this Article".

Sec. 2. G.S. 14-292.1 is repealed.

Sec. 3. The existing Article 37 of Chapter 14 of the General Statutes is recodified as Part 1 of that Article and a new Part 2 is added to read:

"Part 2. Bingo and Raffles.

"§ 14-309.5. *Bingo and raffles.*—It is lawful for an exempt organization to conduct raffles and bingo games in accordance with the provisions of this Part. Any licensed exempt organization who conducts a raffle or bingo game in violation of any provision of this Part shall be guilty of a misdemeanor under G.S. 14-292 and shall be punished in accordance with G.S. 14-3. Upon conviction such person shall not conduct a raffle or bingo game for a period of one year. It is lawful to participate in a raffle or bingo game conducted pursuant to this Part. It shall be a Class H felony for any person: (i) to operate a raffle or bingo game without a license; (ii) to operate a raffle or bingo game while license is revoked or suspended; (iii) to willfully misuse or misapply any monies received in connection with any bingo game or raffle; or (iv) to contract with or provide consulting services to any licensee. It shall not constitute a violation of any State law to advertise a raffle or bingo game conducted in accordance with this Part.

"§ 14-309.6. *Definitions.*—For purposes of this Part, the term:

(1) 'Exempt organization' means an organization that has been in continuous existence in the county of operation of the raffle or bingo game for at least one year and that is exempt from taxation under Section 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code and is exempt under similar provisions of the General Statutes as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic or veterans' organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad or a bona fide homeowners' or property owners' association. (If the organization has local branches or chapters, the term 'exempt organization' means the local branch or chapter operating the raffle or bingo game);

(2) 'Bingo game' means a specific game of chance played with individual cards having numbered squares ranging from one to 75, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers (but shall not include 'instant bingo' which is a game of chance played by the selection of one or more prepackaged cards, with winners determined by the appearance of a preselected designation on the card);

(3) 'Raffle' means a lottery in which the prize is won by random drawing of the name or number of one or more persons purchasing chances, and which is held in accordance with the provisions of G.S. 14-309.8 and G.S. 14-309.9;

(4) 'Local law enforcement agency' means for any raffle or bingo game conducted outside the corporate limits of a municipality or inside the corporate limits of a municipality having no municipal police force:

a. The county police force; or

b. The county sheriff's office in a county with no county police force;

(5) 'Local law enforcement agency' means the municipal police for any raffle or bingo game conducted within the corporate limits of a municipality having a police force;

(6) 'Beach bingo games' means bingo games which have prizes of ten dollars ($10.00) or less or merchandise that is not redeemable for cash and that has a value of ten dollars ($10.00) or less; and

(7) 'Licensed exempt organization' means an exempt organization which possesses a currently valid license.

"§ 14-309.7. *Licensing procedure.*—(a) Any exempt organization desiring to obtain a license to operate bingo games or raffles shall make application to the Department of Revenue on forms prescribed by the Department. Such license shall expire one year after the granting of the license. This license may be renewed from year to year. A copy of the application and license shall be furnished to the local law enforcement agency in the county or municipality in which the licensee intends to operate before bingo is conducted by the licensee.

(b) Each application and renewal application shall contain the following information:

(1) The name and address of the applicant and if the applicant is a corporation, association or other similar legal entity, the name and home address of each of the officers of the organization as well as the name and address of the directors, or other persons similarly situated, of the organization.

(2) The name and home address of each of the members of the special committee.

(3) A copy of the application for recognition of exemptions and a determination letter from the Internal Revenue Service and the Department of Revenue that indicates that the organization is an exempt organization and stating the section under which that exemption is granted; except that if the organization is a State or local branch, lodge, post, or chapter of a national organization, a copy of the determination letter of the national organization satisfies this requirement.

(4) The location at which the applicant will conduct the bingo games or raffles. If the premises are leased, a copy of the lease or rental agreement.

(c) In order for an exempt organization to have a member familiar with the operation of bingo present on the premises at all times when bingo is being played and for this member to be responsible for the receiving, reporting and depositing of all revenues received, the exempt organization may pay one member for conducting a bingo game. Such pay shall be on an hourly basis only for the time bingo is actually being played and shall not exceed one and one-half times the existing minimum wage in North Carolina. The member paid under

this provision shall be a member in good standing of the exempt organization for at least one year and shall not be the lessor or an employee or agent of the lessor. No other person may be compensated for conducting a raffle or bingo game. An exempt organization shall not contract with any person for the purpose of conducting a raffle or bingo game. Except as provided in subsection (e) of this section, an exempt organization may hold a bingo game only in or on property owned (either legally or equitably) by the organization or leased by the organization for a period of not less than one year and actually occupied and used by that organization on a regular basis for purposes other than bingo for at least six months before the game; and all equipment used by the exempt organization in conducting the bingo game must be owned by the organization. Unless the exempt organization leases the property in accordance with this subsection, an exempt organization may conduct a bingo game only in or on property that is exempt from property taxes levied under Subchapter II of Chapter 105 of the General Statutes, or that is classified and not subject to any property taxes levied under Subchapter II of Chapter 105 of the General Statutes. It shall be unlawful for any person to operate beach bingo games at a location which is being used by any licensed exempt organization for the purpose of conducting bingo games.

(d) Conduct of a bingo game or raffle under this Part on such property shall not operate to defeat an exemption or classification under Subchapter II of Chapter 105 of the General Statutes.

(e) An exempt organization desiring to conduct an annual or semi-annual bingo game may apply to the Department of Revenue for a single occasion permit. The Department of Revenue may require such information as is reasonable and necessary to determine that the bingo game is conducted in accordance with the provisions of this Part but may not require more information than previously specified in this section for application of a regular license. The application shall be made to the Department on prescribed forms at least 30 days prior to the scheduled date of the bingo game. In lieu of the reporting requirements of G.S. 14-309.11(b) the exempt organization shall file with the licensing agency and local law enforcement a report on prescribed forms no later than 30 days following the conduct of the bingo game for which the permit was obtained. Such report may require such information as is reasonable and necessary to determine that the bingo game was conducted in accordance with the provisions of this Part but may not require more information than specified in G.S. 14-309.11(b). Any licensed exempt organization may donate or loan its equipment or use of its premises to an exempt organization which has secured a single occasion permit provided such arrangement is disclosed in the single occasion permit application and is approved by the Department of Revenue. Except as stated above, all provisions of this Part shall apply to any exempt organization operating a bingo game under this provision.

"§ 14-309.8. *Limit on sessions.*—The number of sessions of bingo conducted or sponsored by an exempt organization shall be limited to two sessions per week and such sessions must not exceed a period of five hours each per session. No two sessions of bingo shall be held within a 48-hour period of time. No more than two sessions of bingo shall be operated or conducted in any one building, hall or structure during any one calendar week. Raffles shall be limited to one per month per organization per county. This section shall not apply to bingo

games or raffles conducted at a fair or other exhibition conducted pursuant to Article 45 of Chapter 106 of the General Statutes.

"§ 14-309.9. *Bingo and raffle prizes.*—(a) The maximum prize in cash or merchandise that may be offered or paid for any one game of bingo is five hundred dollars ($500.00). The maximum aggregate amount of prizes, in cash and/or merchandise, that may be offered or paid at any one session of bingo is one thousand five hundred dollars ($1,500). Provided, however, that if an exempt organization holds only one session of bingo during a calendar week, the maximum aggregate amount of prizes, in cash and/or merchandise, that may be offered or paid at any one session is two thousand five hundred dollars ($2,500).

(b) A raffle conducted pursuant to this Part shall be lawful only if the amount of a prize paid in cash is five hundred dollars ($500.00) or less, or if merchandise used as a prize, not redeemable in cash, has a market value of twenty thousand dollars ($20,000) or less.

(c) This section shall not apply to bingo games or raffles conducted at a fair or other exhibition conducted pursuant to Article 45 of Chapter 106 of the General Statutes.

"§ 14-309.10. *Operation of raffles and bingo.*—The operation of raffles or bingo games shall be the direct responsibility of, and controlled by, a special committee selected by the governing body of the exempt organization in the manner provided by the rules of the exempt organization.

"§ 14-309.11. *Accounting and use of proceeds.*—(a) All funds received in connection with a raffle or bingo game shall be placed in a separate bank account. No funds may be disbursed from this account except the exempt organization may expend proceeds for prizes, advertising, utilities, and the purchase of supplies and equipment used in conducting the raffle and in playing bingo, taxes and license fees related to raffles and bingo and the payment of compensation as authorized by G.S. 14-309.7(c) and for the purposes set forth below for the remaining proceeds. Such payments shall be made by consecutively numbered checks. Any proceeds available in the account after payment of the above expenses shall inure to the exempt organization to be used for religious, charitable, civic, scientific, testing, public safety, literary, or educational purposes or for purchasing, constructing, maintaining, operating or using equipment or land or a building or improvements thereto owned by and for the exempt organization and used for civic purposes or made available by the exempt organization for use by the general public from time to time, or to foster amateur sports competition, or for the prevention of cruelty to children or animals, provided that no proceeds shall be used or expended for social functions for the members of the exempt organization.

(b) An audit of the account required by subsection (a) of this section shall be prepared annually for the period of January 1 through December 31 or otherwise as directed by the Department of Revenue and shall be filed with the Department of Revenue and the local law enforcement agency at a time directed by the Department of Revenue. The audit shall be prepared on a form approved by the Department of Revenue and shall include the following information:

(1) The number of raffles or bingo games conducted or sponsored by the exempt organization;

(2) The location and date at which each raffle or bingo game was conducted and the prize awarded;

(3) The gross receipts of each raffle or bingo game;

(4) The cost or amount of any prize given at each raffle or bingo game;

(5) The amount paid in prizes at each session;

(6) The net return to the exempt organization; and

(7) The disbursements from the separate account and the purpose of those disbursements, including the date of each transaction and the name and address of each payee.

(c) Any person who shall willfully furnish, supply, or otherwise give false information in any audit or statement filed pursuant to this section shall be guilty of a misdemeanor.

(d) All books, papers, records and documents relevant to determining whether an organization has acted or is acting in compliance with this section shall be open to inspection by the law enforcement agency or its designee, or the district attorney or his designee, or the Department of Revenue at reasonable times and during reasonable hours.

"§ 14-309.12. *Violation is gambling.*—A raffle or bingo game conducted otherwise than in accordance with the provisions of this Part is 'gambling' within the meaning of G.S. 19-1 *et seq.*, and proceedings against such raffle or bingo game may be instituted as provided for in Chapter 19 of the General Statutes.

"§ 14-309.13. *Public sessions.*—Any exempt organization operating a bingo game or raffle which is open to persons other than members of the exempt organization, their spouses, and their children shall make such bingo game or raffle open to the general public.

"§ 14-309.14. *Beach bingo.*—Nothing in this Article shall apply to 'beach bingo' games nor shall it apply to any raffle held in conjunction with a convention or other meeting open only to members of the exempt organization, their spouses, and their children. G.S. 18B-308 shall apply to such games."

Sec. 4. G.S. 18B-308 is amended by deleting "G.S. 14-292.1", and inserting in lieu thereof "Part 2 of Article 37 of Chapter 14 of the General Statutes".

Sec. 4.1. G.S. 105-66 is amended by adding a new subsection to read:

"(d) Any person obtaining a license under G.S. 14-309.7 is not required to obtain a State license under this section for the same activity, but is subject to subsection (c) of this section as if a State license was required."

Sec. 5. G.S. 18B-1000(5) is amended by adding a new sentence between the first and second sentences of that subdivision to read:

"This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by G.S. 14-309.11(a) and G.S. 14-309.13."

Sec. 5.1. Should the Supreme Court of North Carolina or a federal court having jurisdiction over North Carolina find and determine in any manner, whether on the merits or by denial of petition for discretionary review, that the General Assembly may not constitutionally allow "exempt organizations" as defined herein to conduct bingo or raffles, while denying that privilege to all other persons, then this act and G.S. 14-292.1 are repealed in their entirety, and no person may conduct bingo or raffles under any circumstances not permitted by the gambling laws of North Carolina.

Sec. 6. Prosecutions for offenses occurring before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

Sec. 7. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 814 CHAPTER 897

AN ACT TO REGULATE THE PRACTICE OF MIDWIFERY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 10A.

"Practice of Midwifery.

"§ 90-172.1. *Title.*—This Article shall be known and may be cited as the Midwifery Practice Act.

"§ 90-172.2. *Definitions.*—As used in this Article:

(1) 'Interconceptional care' includes but is not limited to:

a. family planning;

b. screening for cancer of the breast and reproductive tract; and

c. screening for and management of minor infections of the reproductive organs;

(2) 'Intrapartum care' includes but is not limited to:

a. attending women in uncomplicated labor;

b. assisting with spontaneous delivery of infants in vertex presentation from 37 to 42 weeks gestation;

c. performing amniotomy;

d. administering local anesthesia;

e. performing episiotomy and repair; and

f. repairing lacerations associated with childbirth.

(3) 'Midwifery' means the act of providing prenatal, intrapartum, postpartum, newborn and interconceptional care. The term does not include the practice of medicine by a physician licensed to practice medicine when engaged in the practice of medicine as defined by law, the performance of medical acts by a physician assistant or nurse practitioner when performed in accordance with the rules of the Board of Medical Examiners, the practice of nursing by a registered nurse engaged in the practice of nursing as defined by law, or the rendering of childbirth assistance in an emergency situation.

(4) 'Newborn care' includes but is not limited to:

a. routine assistance to the newborn to establish respiration and maintain thermal stability;

b. routine physical assessment including APGAR scoring;

c. vitamin K administration; and

d. eye prophylaxis for opthalmia neonatorum.

(5) 'Postpartum care' includes but is not limited to:

a. management of the normal third stage of labor;

b. administration of pitocin and methergine after delivery of the infant when indicated; and

c. six weeks postpartum evaluation exam and initiation of family planning.

(6) 'Prenatal care' includes but is not limited to:

a. historical and physical assessment;

b. obtaining and assessing the results of routine laboratory tests; and

c. supervising the use of prenatal vitamins, folic acid, iron, and nonprescription medicines.

"§ 90-172.3. *Regulation of midwifery.*—(a) No person shall practice or offer to practice or hold oneself out to practice midwifery unless approved pursuant to this Article.

(b) A person approved pursuant to this Article may practice midwifery in a hospital or non-hospital setting and shall practice under the supervision of a physician licensed to practice medicine who is actively engaged in the practice of obstetrics. A registered nurse approved pursuant to this Article is authorized to write prescriptions for drugs in accordance with the same conditions applicable to a nurse practitioner under G.S. 90-18.2(b).

"§ 90-172.4. *Administration.*—(a) The joint subcommittee of the Board of Medical Examiners and the Board of Nursing created pursuant to G.S. 90-18.2 shall administer the provisions of this Article and the rules adopted pursuant to this Article; provided, however, that actions of the joint subcommittee pursuant to this Article shall not require approval by the Boards of Medical Examiners and of Nursing. For purposes of this Article, the joint subcommittee shall be enlarged by four additional members, including two certified midwives and two obstetricians who have had working experience with midwives.

(b) The joint subcommittee shall adopt rules pursuant to this Article to establish:

(1) a fee which shall cover application and initial approval up to a maximum of one hundred dollars ($100.00);

(2) an annual renewal fee to be paid by January 1 of each year by persons approved pursuant to this Article up to a maximum of fifty dollars ($50.00);

(3) a reinstatement fee for a lapsed approval up to a maximum of five dollars ($5.00);

(4) the form and contents of the applications which shall include information related to the applicant's education and certification by the American College of Nurse-Midwives; and

(5) the procedure for establishing physician supervision as required by this Article.

(c) The joint subcommittee may solicit, employ, or contract for technical assistance and clerical assistance and may purchase or contract for the materials and services it needs.

(d) All fees collected on behalf of the joint subcommittee and all receipts of every kind and nature, as well as the compensation paid the members of the joint subcommittee and the necessary expenses incurred by them in the performance of the duties imposed upon them, shall be reported annually to the State Treasurer. All fees and other moneys received by the joint subcommittee pursuant to the provisions of the General Statutes shall be kept in a separate fund by the joint subcommittee, to be held and expended only for such purposes as are proper and necessary to the discharge of the duties of the joint subcommittee and to enforce the provisions of this Article. No expense incurred by the joint subcommittee shall be charged against the State.

(e) Members of the joint subcommittee who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the joint subcommittee who are officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rate set out in G.S. 138-6.

"§ 90-172.5. *Qualifications for approval.*—In order to be approved by the joint subcommittee pursuant to this Article, a person shall:

(1) complete an application on a form furnished by the joint subcommittee;

(2) submit evidence of certification by the American College of Nurse-Midwives;

(3) submit evidence of arrangements for physician supervision; and

(4) pay the fee for application and approval.

"§ 90-172.6. *Denial, revocation or suspension of approval.*—(a) In accordance with the provisions of Chapter 150A, the joint subcommittee may deny, revoke or suspend approval when a person has:

(1) failed to satisfy the qualifications for approval;

(2) failed to pay the annual renewal fee by January 1 of the current year;

(3) given false information or withheld material information in applying for approval;

(4) demonstrated incompetence in the practice of midwifery;

(5) violated any of the provisions of this Article;

(6) a mental or physical disability or uses any drug to a degree that interferes with his or her fitness to practice midwifery;

(7) engaged in conduct that endangers the public health;

(8) engaged in conduct that deceives, defrauds, or harms the public in the course of professional activities or services; or

(9) been convicted of or pleaded guilty or *nolo contendere* to any felony under the laws of the United States or of any state of the United States indicating professional unfitness.

(b) Revocation or suspension of a license to practice nursing pursuant to G.S. 90-171.37 shall automatically result in comparable action against the person's approval to practice midwifery under this Article.

"§ 90-172.7. *Enforcement.*—(a) The joint subcommittee may apply to the Superior Court of Wake County to restrain any violation of this Article.

(b) Any person who violates G.S. 90-172.3(a) shall be guilty of a misdemeanor and shall be punishable by a fine not exceeding one hundred dollars ($100.00) or imprisonment for not more than 30 days or both in the discretion of the court."

Sec. 2. G.S. 90-172 and G.S. 130-112 are repealed. G.S. 90-18(7) is rewritten as:

"(7) The practice of midwifery as defined in G.S. 90-172.2."

Sec. 3. This act shall become effective October 1, 1983. Any person who on October 1, 1983, had been a practicing midwife in North Carolina for more than 10 years may continue to assist at childbirth without approval under this Article. Any other person authorized to practice midwifery on September 30, 1983, may continue to practice midwifery without approval under this Article until April 1, 1984. No annual fee shall be collected for 1983.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 1090 **CHAPTER 898**

AN ACT TO LIMIT THE OPERATION IN NORTH CAROLINA OF TRUCKS WITH TWO TRAILERS AND INCREASED LENGTHS AND WIDTHS MANDATED BY FEDERAL LAW AND TO CONFORM THE NORTH CAROLINA LAW TO FEDERAL REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-115.1. *Limitations on tandem trailers and semitrailers on certain North Carolina highways.*—(a) Motor vehicle combinations consisting of a truck tractor and two trailing units may be operated in North Carolina only on highways of the Interstate System and on those sections of the Federal-aid primary system designated by the United States Secretary of Transportation. No trailer or semitrailer operated in this combination shall exceed twenty eight (28) feet in length; provided, however, a 1982 or older year model trailer or semitrailer of up to twenty-eight and one-half (28 1/2) feet in length may operate in a combination within a sixty-five (65) foot overall length.

(b) Motor vehicle combinations consisting of a semitrailer of not more than 48 feet in length and a truck tractor may be operated on the Interstate highways and Federal-aid highways designated by the United States Secretary of Transportation.

(c) Motor vehicles with a width not exceeding one hundred and two (102) inches may be operated on the Interstate highways and other qualifying Federal-aid highways designated by the United States Secretary of Transportation, with traffic lanes designed to be a width of twelve feet or more.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section which limit the length of trailers which may be used in motor vehicle combinations in this State on highways of the Interstate System and on those sections of the Federal-aid primary system designated by the United States Secretary of Transportation, there is no limitation of the length of the truck tractor which may be used in motor vehicle combinations on these highways and therefore, in compliance with Section 411(b) of the Surface Transportation Act of 1982, there is no overall length limitation for motor vehicle combinations regulated by this section.

(e) The length and width limitations in this section are subject to exceptions and exclusions for safety devices and specialized equipment as provided for in 49 USC 2311(d)(h) and Section 416 of the Surface Transportation Act of 1982 as amended (49 USC 2316).

(f) Motor vehicle combinations operating pursuant to this section shall have reasonable access between (a) highways on the Interstate System and other qualifying Federal-aid highways as designated by the United States Secretary of Transportation and (b) terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers. 'Reasonable access' to facilities for food, fuel, repairs and rest shall be deemed to be those facilities which are located within three (3) road miles of the Interstate or designated highway. The Department of Transportation is authorized to promulgate rules and regulations providing for 'reasonable access'."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 1122 CHAPTER 899

AN ACT TO CREATE THE NEW TECHNOLOGY JOBS ACT.

Whereas, unemployment rates vary considerably from one region of the State to the next; and

Whereas, the creation of more and better job opportunities for North Carolinians at all age and skill levels in all regions of the State are a top priority in relation to balanced growth considerations; and

Whereas, small businesses of all kinds, including but not limited to agriculture, aquaculture and forestry enterprises, are the primary sources of employment throughout the State and they are likely to remain the primary sources of employment in the future; and

Whereas, biotechnology is a new frontier of science that is already the basis for new products and businesses in the human and animal health field and has even greater potential to lead to new, valuable agriculture and forestry products; and

Whereas, in recognition of the importance of biotechnology to the industrial base of the State, the North Carolina Board of Science and Technology established the North Carolina Biotechnology Center to pursue opportunities in biotechnology research, education, and business development special benefit to the State; and

Whereas, the Biotechnology Center has documented that it can leverage its State funds with at least an equal additional amount from non-State sources and that it can contribute to the development of new and existing businesses and research opportunities; and

Whereas, scientific and technical advances in general flowing from research and academic institutions can be applied to the development of existing and new small businesses throughout the State; and

Whereas, principal growth in employment has come from the introduction of new technology; and

Whereas, adequate capital and affordable space for the research activities of existing and new small businesses are key ingredients to the development of new and existing small businesses; and

Whereas, partnerships between State and local government, financial institutions, business, labor, and research and academic institutions provide the most effective means for utilizing technological resources to create new jobs throughout the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-433 is amended by inserting a new subsection to read:

"(22) The North Carolina Technological Development Authority,".

Sec. 2. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 12. North Carolina Technological Development Authority.

"§ 143B-471. *Creation of Authority.*—There is hereby created the North Carolina Technological Development Authority, to increase the rate at which

new jobs are created in all regions of the State, by stimulating the development of existing and new small businesses. The Authority shall be administratively located within the Department of Commerce, but shall exercise its powers independently of the head of that department, as if it had been transferred to the Department of Commerce by a Type II transfer as defined in G.S. 143A-6(b).

"§ 143B-471.1. *Composition of Authority.*—(a) The Authority shall be governed by a board composed of 12 members, eight of whom shall be appointed by the Governor, two of whom shall be appointed by the General Assembly upon the recommendation of the President of the Senate under G.S. 120-121, and two of whom shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. Consideration should be given to the appointment of persons, including minorities and females, with technical expertise as well as experience in entrepreneurial business development and capital formation.

(b) Members shall serve four-year terms effective July 1, 1983, and quadrennially thereafter, except that the two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall serve for two-year terms effective July 1, 1983, and biennially thereafter. No person appointed to a four-year term shall serve more than two consecutive terms.

(c) Vacancies shall be filled by the Governor to serve the remainder of the unexpired term, except that vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

"§ 143B-471.2. *Officers; meetings.*—(a) The Governor shall appoint from the members of the Authority a chairman. The Authority shall elect from among its members a Vice-Chairman and shall elect a secretary.

(b) The Authority shall meet at the call of the Chairman, upon the written call of the majority of its members or upon resolution of the Authority.

(c) A quorum shall consist of seven members of the Authority.

"§ 143B-471.3. *Compensation.*—Members of the Authority shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5.

"§ 143B-471.3A. *Powers.*—In order to enable it to carry out the purposes of this Part, the Authority may:

(1) Exercise the powers granted corporations under G.S. 55-17;

(2) Employ an Executive Director, whose salary shall be set by the Governor and the Authority, after consultation with the Advisory Budget Commission. The Authority may employ such other professional staff and clerical and secretarial staff as it deems necessary within the funds available to it. The salaries of such other personnel shall be set under the State Personnel Act;

(3) Establish an office for the transaction of its business at Raleigh;

(4) Apply for and accept grants of money from the State of North Carolina, or any political subdivision thereof, from the United States, or from any person, corporation, foundation, trust, or business or from any foreign government for any of the purposes authorized by this Part;

(5) Establish and administer the incubator facilities program;

(6) Administer the North Carolina Innovation Research Fund; and

(7) Adopt reasonable rules to effectuate the purposes of this Part.

"§ 143B-471.4. *Incubator facilities program.*—(a) The Authority shall establish one or more incubator facilities within the State. An incubator facility

is a building or buildings that provides space and support services for small businesses concerns which are beginning. 'Small business concern' has the same meaning as that contained in Chapter 14A of Title 15, United States Code, and regulations promulgated under it.

(b) The Authority shall select sites for incubator facilities. The Authority in selecting sites shall evaluate areas for potential sites using the following criteria but is not limited to them:

(1) the unemployment rate,

(2) the need for industrial and economic diversification and development,

(3) the interest by the locality in the establishment of an incubator facility in the area as manifested by grants from public and private sources and cooperation agreements between local government, business, labor and educational institutions demonstrating the probability of the success of the incubator facility.

(c) The Authority may make one-time grants to establish incubator facilities. A grant may not exceed two hundred thousand dollars ($200,000). Local government and interests must at least equal in cash or real estate value any grant made by the Authority; provided, however, that contributions by State agencies may not be included in the matching grant.

(d) Only nonprofit corporations which are affiliated with local universities, colleges, community colleges or technical institutes or combinations thereof to advance the educational and research programs of these institutions shall be eligible to receive a grant from the Authority. Pursuant to rules adopted by the Authority, the corporation shall:

(1) manage and maintain the incubator facility,

(2) develop a mechanism to provide technical, management and entrepreneurial expertise to resident small business concerns and to small business concerns throughout the area, and

(3) abide by rules adopted by the Authority.

(e) The incubator facility and any improvements shall be owned by the State but may be leased to the corporation. Small business concern residents of the facility may be provided secretarial and other support facilities and utilities for which the corporation may charge them a part or all of the cost. No small business concern may remain in the facility for more than two years. Notwithstanding any other provision of law, the State shall not be liable for any act or failure to act of any organization granted funds under this Part, or any small business concern benefiting from the incubator facilities program.

"§ 143B-471.5. *North Carolina Innovation Research Fund.*—(a) The North Carolina Innovation Research Fund is hereby created to provide equity financing for the research activities of new and existing small business concerns in various regions of the State, including agriculture, aquaculture and forestry enterprises. This financing is designed to enable small business concerns to acquire technical and management assistance and otherwise to conduct research leading to new or improved product or service development.

(b) The Fund will take an equity position in contracting concerns through the purchase of stock, the receipt of royalties, or other equity instruments.

(c) The Fund will consist of appropriations from the State; monies derived from federal, local governments and private grants; receipt of royalties and sale of equities.

(d) Awards per research project shall not exceed fifty thousand dollars ($50,000) per fiscal year. Awards will be limited to concerns physically located in North Carolina, but the awards shall not be limited to incubator-affiliated projects.

(e) To protect its investments, the Authority shall make development agreements with contracting concerns, to ensure proper use of Fund awards and the receipt of royalties, where appropriate. Development agreements shall assign all rights to abandoned projects to the Authority.

(f) Any funds received through the receipt of royalties, dividends, or the sale of equity instruments shall be deposited in the Fund and are available to the Authority for use under this Part."

Sec. 3. G.S. 120-123 is amended by adding a new subdivision to read:

"(6a) The North Carolina Technological Development Authority as created by G.S. 143B-471."

Sec. 4. Of the funds appropriated from the General Fund to the Department of Commerce in Section 2 of Chapter 761 of the 1983 Session Laws, for fiscal year 1983-84 the sum of five hundred thousand dollars ($500,000) and for fiscal year 1984-85 the sum of five hundred fifty thousand dollars ($550,000) is designated for the purposes of the North Carolina Technological Development Authority. Of the funds so appropriated for fiscal year 1983-84, the sum of two hundred twenty-five thousand dollars ($225,000) is available only for the North Carolina Innovation Research Fund, the sum of two hundred thousand dollars ($200,000) is available only for grants to incubator facilities, and the sum of seventy-five thousand dollars ($75,000) is available only for the operation of the Technological Development Authority. Of the funds appropriated for fiscal year 1984-85, the sum of two hundred fifty thousand dollars ($250,000) is available only for the North Carolina Innovation Research Fund, the sum of two hundred thousand dollars ($200,000) is available only for grants to incubator facilities, and the sum of one hundred thousand dollars ($100,000) is available for the operation of the Technological Development Authority.

Sec. 5. Of the funds appropriated from the General Fund to the Department of Commerce in Section 2 of Chapter 761 of the 1983 Session Laws, for fiscal year 1983-84 the sum of four hundred eighty-five thousand dollars ($485,000) and for fiscal year 1984-85 the sum of four hundred ninety thousand dollars ($490,000) is designated for the purposes of the Biotechnology Center, provided that funds for fiscal year 1984-85 shall not be released unless the Biotechnology Center has raised at least five hundred thousand dollars ($500,000) in non-State funds during the period beginning with the date of ratification of this act and ending on June 30, 1984; provided further that these appropriations shall not become part of the continuation budget for 1985-87 unless the Biotechnology Center has raised a total of one million dollars ($1,000,000) in non-State funds by December 31, 1984.

Sec. 6. Of the funds appropriated from the General Fund to the Department of Commerce in Section 2 of Chapter 761 of the 1983 Session Laws, the sum of fifteen thousand dollars ($15,000) in fiscal year 1983-84 and the sum of ten thousand dollars ($10,000) in fiscal year 1984-85 is transferred to the Legislative Research Commission to conduct a study of the field of biotechnology.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 1240 CHAPTER 900

AN ACT TO PROVIDE CONFIDENTIALITY IN LEGISLATIVE COMMUNICATIONS.

The General Assembly of North Carolina enacts:

Section 1. A new Article is added to Chapter 120 of the General Statutes to read:

"Article 17.

"Confidentiality of Legislative Communications.

"§ 120-125. *Definitions.*—As used in this Article:

(1) 'Document' means all records, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material regardless of physical form or characteristics.

(2) 'Legislative employee' means employees and officers of the General Assembly, consultants and counsel to members and committees of either house of the General Assembly who are paid by State funds, and employees of the Institute of Government; but does not mean legislators and members of the Council of State.

(3) 'Legislator' means a duly elected or appointed member of the North Carolina Senate or House of Representatives.

"§ 120-126. *Drafting and information requests to legislative employees.*—(a) A drafting request made to a legislative employee from a legislator is confidential. Neither the identity of the legislator making the request nor, except to the extent necessary to answer the request, the existence of the request may be revealed to any person who is not a legislative employee without the consent of the legislator.

(b) An information request made to a legislative employee from a legislator is confidential. Neither the identity of the legislator making the request nor, except to the extent necessary to answer the request, the existence of the request may be revealed to any person who is not a legislative employee without the consent of the legislator. Notwithstanding the preceding sentences of this subsection, the periodic publication by the Fiscal Research Division of the Legislative Services Office of a list of information requests is not prohibited, if the identity of the legislator making the request is not revealed.

(c) Any supporting documents submitted or caused to be submitted to a legislative employee by a legislator in connection with a drafting or information request are confidential. Except to the extent necessary to answer the request, neither the document nor copies of it, nor the identity of the person, firm, or association producing it, may be provided to any person who is not a legislative employee without the consent of the legislator.

(d) Drafting or information requests or supporting documents are not 'public records' as defined by G.S. 132-1.

"§ 120-127. *Documents produced by legislative employees.*—(a) Documents prepared by legislative employees upon the request of legislators are confidential. Except as provided in subsection (b) of this section, the existence of the document may not be revealed nor may a copy of the document be provided

to any person who is not a legislative employee without the consent of the legislator.

(b) A document prepared by a legislative employee upon the request of a legislator becomes available to the public when the document is a:

(1) bill or resolution and it has been introduced;

(2) proposed amendment or committee substitute for a bill or resolution and it has been offered at a committee meeting or on the floor of a house;

(3) proposed conference committee report and it has been offered at a joint meeting of the conference committees; or

(4) bill, resolution, memorandum, written analysis, letter, or other document resulting from a drafting or information request and it has been distributed at a study commission, or study or standing committee or subcommittee meeting not held in executive session or on the floor of a house.

A document prepared by a legislative employee upon the request of any legislator, that pursuant to this Article does not become available to the public, is not a 'public record,' as defined by G.S. 132-1.

(c) This section does not prohibit the dissemination of information or language contained in any document which has been prepared by a legislative employee in response to a substantially similar request from another legislator, provided that the identity of the requesting legislator and the fact that he had made such a request not be divulged.

"§ 120-128. *Testimony by legislative employees.*—No present or former legislative employee may be required to disclose any information that the individual, while employed or retained by the State, may have acquired:

1. in a standing, select, or conference committee or subcommittee of either house of the General Assembly;

2. on the floor of either house of the General Assembly, or in any office of a legislator;

3. as a result of communications that are confidential under G.S. 120-126 and G.S. 120-127.

Notwithstanding the provisions of the preceding sentence, the presiding judge of a court of competent jurisdiction may compel that disclosure, if in his opinion, the same is necessary to a proper administration of justice.

"§ 120-129. *Redistricting communications.*—Notwithstanding any other provision of law, all drafting and information requests to legislative employees and documents prepared by legislative employees for legislators concerning redistricting the North Carolina General Assembly or the Congressional Districts are no longer confidential and become public records upon the ratification of the act establishing the relevant district plan. Present and former legislative employees may be required to disclose information otherwise protected by G.S. 120-128 concerning redistricting the North Carolina General Assembly or the Congressional Districts upon the ratification of the act establishing the relevant district plan.

"§ 120-130. *Penalty.*—Violation of any provision of this section shall be grounds for disciplinary action in the case of employees and for removal from office in the case of public officers. No criminal penalty shall attach for any violation of this Article."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 1356 CHAPTER 901

AN ACT TO CREATE THE CRIME OF ABUSING, NEGLECTING OR EXPLOITING A DISABLED ADULT.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Article 8 of Chapter 14 of the General Statutes to read:

"§ 14-32.2. *Abuse, neglect or exploitation of disabled adult.*—The abuse, neglect or exploitation of a disabled adult by his caretaker or agent or employee of his caretaker, as the terms 'abuse', 'caretaker', 'disabled adult', 'exploitation' and 'neglect' are defined in G.S. 108A-101, is a misdemeanor."

Sec. 2. This act is effective October 1, 1983, and shall apply only to Haywood County.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

S. B. 472 CHAPTER 902

AN ACT TO EXTEND THIRTY-YEAR UNREDUCED RETIREMENT BENEFITS TO TEACHERS AND STATE EMPLOYEES WHO RETIRED PRIOR TO JULY 1, 1973, AND WHO CONTRIBUTED TO THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM FOR THIRTY OR MORE YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-5 is hereby amended by adding a new subsection (gg) thereto to read as follows:

"(gg) Notwithstanding any other provision of this Chapter, from and after July 1, 1983, the retirement allowance payable to each teacher and State employee, who retired prior to July 1, 1973, and who is in receipt of a reduced retirement allowance based upon 30 or more years of contributing membership service, shall be increased by the elimination of the reduction factors applicable at the time of their retirement under G.S. 135-3(8) or G.S. 135-5(b3). The provisions of this subsection shall apply equally to the allowance of a surviving annuitant of a beneficiary."

Sec. 2. Whereas Chapter 242 of the 1973 Session Laws enacted the 30-year unreduced retirement benefit for teachers and State employees who retired on and after July 1, 1973, without requiring any increase in the employer contribution rate; and whereas undistributed gains in the Teachers' and State Employees' Retirement System have been at least $25 million per year since December 31, 1977, and averaging almost $40 million per year since December 31, 1977; now therefore, the total present value cost of this act shall be funded by undistributed gains in the Teachers' and State Employees' Retirement System for the year ending December 31, 1982, without requiring any increase in the employer contribution rate.

Sec. 3. This act shall become effective July 1, 1983, and the increased benefit shall be payable on the first of the month following a determination by

the System's consulting actuary that sufficient gains are available in the System to pay the total present value actuarial cost of the increased benefit.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

S. B. 698 CHAPTER 903

AN ACT TO APPOINT PERSONS TO PUBLIC OFFICE UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE.

Whereas, G.S. 120-121 as amended by Chapter 717, Session Laws of 1983, authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President Pro Tempore of the Senate; and

Whereas, the President Pro Tempore of the Senate has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. (a) Becky G. Dobbins of Randolph County is appointed to the North Carolina Manufactured Housing Board, for a term to expire on September 30, 1986. This is a categorical appointment for a manufactured home supplier.

(b) Dorothy Campbell of Mecklenburg County is appointed to the North Carolina Manufactured Housing Board for a term to expire on September 30, 1986. This is a categorical appointment for a set-up contractor.

Sec. 2. James B. Stegall of Mecklenburg County is appointed to the Private Protective Services Board for a term to expire on June 30, 1984.

Sec. 3. Appointments made by this act are for terms to begin upon ratification of this act.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 626 CHAPTER 904

AN ACT RELATING TO THE GASTON COUNTY POLICE DEPARTMENT.

The General Assembly of North Carolina enacts:

Section 1. The title of the law enforcement agency known as the Gaston County Police Force shall henceforth be known as the Gaston County Police Department. The purpose of the Gaston County Police Department is to secure a more effective administration of the criminal laws of the State of North Carolina and the County of Gaston, to prevent crime, to procure the speedy apprehension of criminals and to protect the lives and property of the citizens of Gaston County. Law enforcement officers of the Gaston County Police Department shall have the authority to arrest in accordance with the provisions of the North Carolina General Statutes.

Sec. 2. The Gaston County Police Department shall consist of a Chief of Police and such officers and other employees of the Department as the Gaston County Board of Commissioners shall, in its discretion, deem sufficient to protect the lives and property of the citizens of Gaston County. The compensation paid to all employees of the Gaston County Police Department

shall be determined by the Gaston County Board of Commissioners through its budget process and in accordance with a pay plan as provided by the Board of Commissioners for all employees of Gaston County government.

Sec. 3. The Chief of Police of the Gaston County Police Department shall be suspended or removed from office by the Gaston County Board of Commissioners for cause. The Chief of Police of the Gaston County Police Department shall, subject to the approval of the Gaston County Board of Commissioners, be appointed to office by the County Manager. The Chief of Police shall be directly responsible and accountable to the County Manager for the fulfillment of all the duties and responsibilities of the police department. The process used by the County Manager to recommend the appointment to the office of Chief of Police shall be one that is fair and equitable, that provides for equal opportunity for employment, that establishes a selection and appointment process based on merit and a reasonable evaluation of each candidate's qualifications, which qualifications may minimally include, but not be limited to: (1) Bachelor's Degree; (2) A minimum of four years' police administrative experience; (3) Above average physical condition and excellent state of health; (4) A psychological evaluation indicating no pathological conditions; (5) Excellent character and reputation.

Sec. 4. Applicants for employment in the Gaston County Police Department shall meet the minimum employment standards for entry level employment as a law enforcement officer in accordance with the rules and regulations established by the North Carolina Criminal Justice Education and Training Standards Commission. The Gaston County Board of Commissioners may establish additional requirements for employment in the Gaston County Police Department, and shall make all such general rules, regulations, and requirements for the conduct and services of the employees of the Department as it may consider advisable. The rules and regulations established by the Board of Commissioners shall be printed and made available for public inspection and for use of employees of, and the applicants for, employment in the Gaston County Police Department.

Sec. 5. The Chief of Police shall be responsible for the investigation of applicants and shall prepare a list of qualified applicants for presentation to the Civil Service Board. The Chief of Police shall ensure that each applicant, whose application is submitted to the Civil Service Board for employment consideration, meets all employment standards and is well qualified for employment as a police officer. Each applicant for employment shall be thoroughly investigated as to fitness to become a police officer and such investigation shall include determinations of moral character, general reputation, absence of criminal history and other considerations necessary to a comprehensive background investigation. Each applicant shall take an oath, as required by the General Statutes, to uphold the Constitutions of the State of North Carolina and of the United States of America and to enfore the laws promulgated thereunder.

Sec. 6. Notice of the time and place for making application for employment with the Gaston County Police Department shall be given by Gaston County in accordance with policies established by the Gaston County Board of Commissioners.

Sec. 7. Effective upon the ratification of this act, the rules, regulations and procedures under which the Gaston County Police Department operates shall be subject to the approval of the Gaston County Board of Commissioners.

Sec. 8. All promotions within the Gaston County Police Department shall be made by the Chief of Police pursuant to policies and procedures adopted by the Board of Commissioners; provided, that promotions to any position other than that of Chief of Police shall be made by the Chief of Police after a competitive examination is administered to eligible officers.

The members of the Department shall be under the control and direction of and shall be responsible to the Chief of Police for the proper conduct of the various duties of the Department. The Chief of Police may discipline, suspend or terminate any officer of the Department for any misconduct in office, or for any infraction of the rules, regulations or procedures established by the Chief of Police and approved by the Board of County Commissioners.

Sec. 9. On the first of each and every calendar month, the Chief of Police shall make out and certify to the County Manager a statement regarding the conduct of the affairs of the Gaston County Police Department, which report shall contain an evaluation of the efficiency and effectiveness of the Department and shall contain any suggestions for improvement in the service rendered or in the personnel of the Department. Said report shall be made by the County Manager to the Board of Commissioners as soon as reasonably possible.

Sec. 10. Every police officer has a civic responsibility to support good government by every available means and in every appropriate manner. Any police officer may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, and may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States of America. However, no police officer of the Gaston County Police Department shall (1) engage in any political activity while on duty, (2) be required as a duty of his office or employment, or as a condition for employment, promotion, or tenure of office, to contribute funds for political or partisan purposes, (3) solicit, or act as custodian of funds for political or partisan purposes, (4) coerce or compel contributions for political or partisan purposes by any other police officer of the County, or (5) use any supplies or equipment of the County for political purposes. No applicant for employment nor any police officer of the Gaston County Police Department shall be examined concerning his or her political opinions, political affiliations, voting registration or voting preference. Any violation of this section shall be deemed improper conduct and shall subject such police officer to dismissal or other disciplinary action.

Sec. 11. The Gaston County Board of Commissioners is hereby authorized to contract with the governing bodies of municipalities located within Gaston County for the provision of law enforcement service and protection within the corporate limits of said municipalities that desire to contract with Gaston County for said service.

Sec. 12. There is hereby created a Civil Service Board for the County of Gaston, to consist of three members to be appointed by the Senior Resident Judge of the Superior Court of the Judicial District in which Gaston County is

located, said members of the Civil Service Board to hold their office as provided in this act.

Sec. 13. The members of the Civil Service Board shall possess the qualifications of a voter of Gaston County, North Carolina, and shall take an oath (or affirmation) for the faithful discharge of the duties of their office. One of the members of the Civil Service Board shall be a citizen and resident of Gastonia township, Gaston County, and the other two members of the Civil Service Board shall be residents of townships of Gaston County other than Gastonia township. The members of the Civil Service Board shall be subject to removal from office by the Senior Resident Superior Court Judge for malfeasance, misfeasance, or nonfeasance in office, or for any violation of the laws of the State of North Carolina, or for any cause which in the discretion of the Senior Resident Superior Court Judge makes such removal in the best interest of the public.

Sec. 14. At the expiration of the term of each member of the Civil Service Board the Senior Resident Superior Court Judge shall appoint a successor for a term of three years. Any vacancy in the said Civil Service Board shall be filled in the manner herein provided for the appointment of members thereof, and the person so appointed shall serve for the remainder of the unexpired term of the member whose place he fills. Members of the board shall hold office until their successors are appointed and qualified, but, in no case, longer than 60 days. No member of the Civil Service Board, who shall have held office for a three-year term shall be qualified to succeed himself or replacement.

Sec. 15. The members of the Civil Service Board shall organize by electing a Chairman and a Secretary at the first meeting of the Civil Service Board in July of each year. The Civil Service Board shall prepare a set of rules, policies, and procedures under which the Civil Service Board shall conduct its affairs and govern its proceedings. Such rules, policies and procedures shall from time to time be reviewed by the Civil Service Board for changes and improvements. These rules, policies, and procedures and any revisions shall be subject to the approval of the Gaston County Board of Commissioners.

Sec. 16. (a) The Civil Service Board shall review the qualifications of applicants for positions as law enforcement officers with the Gaston County Police Department, and appoint to vacant positions only those applicants as are best qualified.

(b) The Civil Service Board shall hear grievances regarding charges of discrimination when such grievances are made in writing to the Civil Service Board by an individual police officer or by groups of police officers within the Gaston County Police Department. Gaston County police officers shall have the option of presenting complaints or grievances regarding discrimination to their Police Department supervisors or directly to the Civil Service Board. After hearing any such grievance, the Civil Service Board shall report its findings in writing jointly to the Chief of Police and the County Manager along with any recommendations that, in its judgment, would be in the best interests of the Police Department and of Gaston County.

(c) The Civil Service Board shall adopt procedural rules, subject to the approval of the Gaston County Board of Commissioners, which are sufficient to insure a meaningful due process hearing for any officer who requests a hearing prior to the enforcement of a disciplinary order.

(d) The Civil Service Board shall review disciplinary action taken against any officer, upon the written request of the officer for a review; provided, however, that the Gaston County Board of Commissioners shall review disciplinary action taken by the County Manager against the Chief of Police, upon the written request of the Chief of Police. The Civil Service Board shall, upon the written request of any officer against whom disciplinary action has been taken, conduct a hearing into the formal charges against the officer and shall make written findings of fact regarding the charges against the officer. The officer, against whom charges have been filed, shall be given ample opportunity at a disciplinary hearing to be heard in his own behalf. The Civil Service Board shall report its findings and conclusions to the County Manager with its request that the County Manager implement the necessary action in accordance with its conclusions. The Civil Service Board shall find facts upon which it will base a decision that the officer against whom charges have been filed shall either be reinstated, suspended, demoted, discharged or exonerated of the charges against him. The County Manager shall review the findings and decision of the Civil Service Board. The County Manager may, no more than three times, remand the action to the Civil Service Board with directions for further findings prior to the final disposition of the Civil Service Board's decision, or if there is no reason for additional hearings before the Civil Service Board, he shall direct the Chief of Police to implement the order of the Civil Service Board.

(e) The Civil Service Board shall review the personnel policies of the Gaston County Police Department and shall make recommendations to the County Manager for revisions of the police personnel policy. The Gaston County Board of Commissioners shall review and adopt the personnel policies for the Gaston County Police Department, making such changes as it deems to be necessary and in the best interests of the Department and the County.

Sec. 17. The Chairman of the Civil Service Board shall conduct the meetings and hearings of the Civil Service Board in accordance with the rules, policies and procedures adopted by the Gaston County Board of Commissioners. The Chairman shall prepare and deliver the annual report of the Civil Service Board to the Board of County Commissioners. The Chairman shall make such reports and recommendations to the County Commissioners and the County Manager as are provided for herein or as requested. The Secretary shall keep the minutes of the proceedings of the Civil Service Board and shall be the custodian of all the papers and records pertaining to the business of the said Board, and shall perform such other duties as the said Board shall prescribe or direct. The records of the Civil Service Board shall be open to the inspection of the public except where the inspection of said records is prohibited by law.

Sec. 18. At the first regular meeting of the Board of Commissioners in January of each year, the Civil Service Board shall make an annual report of its actions for the preceding year to the Board of County Commissioners. Said report may include any recommendations of the Civil Service Board as to the practical effects of the personnel rules or personnel system in use, together with any suggestions which the members of the said Board may deem proper for the improvement of the personnel administration of the Gaston County Police Department.

Sec. 19. The members of the Civil Service Board shall receive for their services such compensation as may be determined by the Board of Commissioners of Gaston County.

Sec. 20. All laws or clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 21. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 1142 CHAPTER 905

AN ACT AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION AND BY THE COMMISSION ON CHILDREN WITH SPECIAL NEEDS AND MAKING TECHNICAL AMENDMENTS RELATING THERETO.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1983 bill or resolution that originally proposed the study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

(1) Continuation of the Study of Revenue Laws (H.J.R. 16 - Lilley); and the ramifications, if enacted, of H.B. 746, Appraisal of Subdivided Tract (Auman) and H.B. 1250, No Intangible Tax/Income Surtax (Auman),

(2) Continuation of the Study on the Problems of the Aging (H.J.R. 44 - Economos; S.J.R. 16 - Gray),

(3) Continuation of the Study on Insurance Regulation (H.B. 63 - Seymour) and Insurance Laws and Regulation of Insurance Industry (H.B. 1243 - Hightower),

(4) Teaching of Computer Literacy in the Public Schools and Community Colleges (H.J.R. 191 - Berry) and the Continuation of Study of College Science Equipment (H.J.R. 898 - Enloe),

(5) Adequacy of State Management of Large-Scale Land Clearing and Peat Mining (H.J.R. 220 - Evans),

(6) Adequacy of Existing Water Pollution Control Programs to Improve and Protect Water Quality in the State (H.J.R. 232 - Evans),

(7) Marketing of Seafood by Fishermen (H.J.R. 896 - Chapin),

(8) Continuation of Study on the Economic Social and Legal Problems and Needs of Women (H.J.R. 904 - Easterling; S.J.R. 329 - Marvin),

(9) Regulation of Nonpublic and Public Post-Secondary Educational Institutions (Joint Resolution 33 (H.J.R. 988 - Thomas)),

(10) Readable Insurance Policies (H.B. 1069 - Ballance),

(11) State Government Risk Management (H.J.R. 1083 - Seymour),

(12) Biotechnology Development (H.B. 1122 - Etheridge, Bobby and H.J.R. 1282 - Etheridge, Bobby; S.J.R. 620 - Hancock),

(13) Continuation of Study of the State's Interest in Railroad Property (H.B. 1142 - Hunt),

(14) Restricting Driving by Minors (H.J.R. 1149 - J. Jordan),

(15) Health Professionals (H.J.R. 1194 - Diamont),
(16) Water Quality in Haw River and B. Everett Jordan Reservoir (H.J.R. 1257 - Hackney),
(17) Regulation of Alcoholic Beverages on State Property (H.J.R. 1292 - Clark),
(18) Disposition of Animals by Animal Shelters and Pounds (H.J.R. 1309 - Stamey),
(19) Boards, Commissions, and Councils in the Executive Branch (H.J.R. 1321 - Hunt),
(20) Feasibility of a Food Distribution Facility on Dix Farm Property in Raleigh (H.J.R. 1334 - James),
(21) Implementation of Identification and Labelling of Toxic or Hazardous Substances as Proposed by House Bill 1339 (Payne),
(22) Water Resources Issues Involving North Carolina and Virginia (H.J.R. 1404 - Church),
(23) Investment Guidelines for Eleemosynary Institutions and Funds (H.J.R. 1423 - Musselwhite),
(24) Child Support Collection Procedures (H.J.R. 1439 - Easterling; S.J.R. 675 - Woodard, W.),
(25) Contamination of Unpackaged Foods (H.J.R. 1441 - Stamey),
(26) Legislative Communications Confidentiality (H.R. 1461 - Miller),
(27) Continuation of the Study of Information Processing Resources in State Government (S.J.R. 44 - Alford),
(28) Regulation and Taxation of Banks, Savings and Loans and Credit Unions (S.J.R. 381 - Edwards of Caldwell),
(29) District Attorney Standards (S.B. 496 - Hipps),
(30) Cost of Providing Attorneys and Guardians Ad Litem to Indigents (S.J.R. 643 - Swain),
(31) Public Health Facility Laws (S.J.R. 656 - Hancock), and Review of Certificate of Need Procedures (H.J.R. 1294 - Economos),
(32) Life Care Arrangements (S.J.R. 657 - Hancock),
(33) Worthless Checks (S.J.R. 661 - Thomas of Henderson),
(34) State-owned Rental Housing as contained in Section 2 of this act,
(35) User Fees at State-owned Facilities, as contained in Section 3 of this act,
(36) Motorboat Titles and Liability Insurance, as contained in Section 4 of this act,
(37) Motor Vehicle Inspection Program, as contained in Section 5 of this act,
(38) Continuation of the Study of Day Care (H.J.R. 594 - Colton),
(39) Continuation of the Study on Twelfth Grade (H.J.R. 753 - Mauney; S.J.R. 343 - Tally),
(40) Procedure for Incorporating Municipalities (S.J.R. 445 - J. Edwards),
(41) Solar Law (S.J.R. 670 - Walker),
(42) Statutory Liens (S.J.R. 680 - Edwards of Caldwell),
(43) In-service Training of Teachers in North Carolina History, the American Economic System, Free Enterprise Concepts, and Legal Topics (H.B. 1281 - Foster).

Sec. 2. State-owned Rental Housing. (a) The Legislative Research Commission is authorized to conduct a study of all State-owned rental housing

during the 1983-84 fiscal year and to recommend a comprehensive statewide rental policy, to be administered by the Department of Administration, to the 1984 Session of the General Assembly. This study shall be conducted in consultation with the department that owns the housing. In conducting this study, the Commission shall first determine the amount of nonessential rental housing currently owned by the State using the following criteria: The geographic location of the State property on which the housing is located and its proximity to alternative privately owned housing; the amount of time that would be required for employees to arrive at the State property on which housing is now located in the event of an emergency; the amount of security necessary for State property that is now being provided by State employees living in State-owned rental housing; and any other benefits to the State for employees to occupy said housing: The Commission shall recommend the disposition of nonessential rental property by one of three means: sale of the housing and property on which it is located; sale of the housing unit only with the stipulation that the house be removed from State property; and conversion of the housing unit to an alternative use.

(b) It is the policy of the State of North Carolina that the State provide rental housing only in cases in which an essential State purpose is served. Nothing in these sections shall be construed to mean that State departments may not continue to divest themselves of nonessential rental housing during the course of the Legislative Research Commission study.

Sec. 3. User Fees. The Legislative Research Commission is authorized to study the potential for user charges and admission fees at State-owned cultural, recreational and historical facilities. The study may cover museums, historic sites, marine resource centers as well as other facilities. The Legislative Research Commission may make an interim report to the 1984 Regular Session of the 1983 General Assembly and may make a final report to the 1985 General Assembly.

Sec. 4. Motorboat Titles and Liability Insurance. The Legislative Research Commission of the General Assembly is authorized to study the issue of motorboat titles and liability insurance. The study may include start-up and administrative costs, potential revenues, phase-in plans, financial institution requirements, etc. The Commission may report to the 1984 Session.

Sec. 5. Motor Vehicle Inspection Program Study. The Legislative Research Commission may study the effectiveness of the motor vehicle inspection program required by Article 3A of Chapter 20 of the General Statutes. The study may consider, among other aspects, the impact on highway safety, cost effectiveness of the program, and probable impact of eliminating part or all of the program.

Sec. 6. For each of the topics the Legislative Research Commission decides to study, the Commission may report its findings, together with any recommended legislation, to the 1984 Session of the General Assembly or to the 1985 General Assembly, or the Commission may make an interim report to the 1984 Session and a final report to the 1985 General Assembly.

Sec. 7. G.S. 120-30.17 is amended by adding two new subsections to read:

"(7) to obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.

(8) to call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena."

Sec. 8. Section 1 of Chapter 1372, Session Laws of 1981, is amended by deleting "as authorized in Section 2 of Resolution 61, Session Laws of 1981".

Sec. 9. Section 1(3) of Chapter 1372, Session Laws of 1981, is amended by deleting "1983 Session", and inserting in lieu thereof "1983 and 1985 Sessions".

Sec. 10. G.S. 124-5 is amended by deleting "June 1, 1983", and inserting in lieu thereof "the date of convening of the 1985 Regular Session of the General Assembly".

Sec. 11. The last sentence of G.S. 124-5 is amended by deleting "11-month period", and inserting in lieu thereof "period ending on convening of the 1985 Regular Session."

Sec. 12. Deaf/Blind School Move—Commission on Children with Special Needs. (a) The Commission on Children with Special Needs, established by Article 12 of Chapter 120 of the General Statutes, may study the issue of transferring the State schools for the Deaf and the Governor Morehead School for the Blind to the jurisdiction of the State Board of Education.

(b) The Commission may make a final report to the Second Session of the 1983 General Assembly. (H.J.R. 246 - Fenner)

Sec. 13. Bills and Resolution References. The listing of the original bill or resolution in this act is for references purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

Sec. 14. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 1471 CHAPTER 906

AN ACT TO AMEND CHAPTER 504 OF THE 1983 SESSION LAWS, DEALING WITH WILMINGTON'S FIREMEN'S PENSIONS, TO MAKE A TECHNICAL CORRECTION.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 504 of the 1983 Session Laws is amended by deleting the phrase "after ratification of this act" and by substituting the phrase "prior to January 1, 1983".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 1473 CHAPTER 907

AN ACT TO REPEAL CONDITIONS WHICH HAVE BEEN SATISFIED.

The General Assembly of North Carolina enacts:

Section 1. Section 8 of Chapter 340, Session Laws of 1983 is repealed.

Sec. 2. The last sentence of Section 2 of Chapter 677, Session Laws of 1983 is repealed.

Sec. 3. The last sentence of Section 2 of Chapter 540, Session Laws of 1983 is repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 426 CHAPTER 908

AN ACT TO AUTHORIZE COUNTIES TO LEVY ONE-HALF PERCENT SALES AND USE TAXES AND TO DESIGNATE HOW PART OF THE REVENUE FROM THESE TAXES SHALL BE USED, TO ALLOW CERTAIN CITIES TO SPEND SALES TAX REVENUE ON HOUSING, AND TO AUTHORIZE VARIOUS TRANSIENT OCCUPANCY TAXES.

The General Assembly of North Carolina enacts:

Part I. Local Sales and Use Taxes.

Section 1. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding two new Articles to read:

"Article 40.

"Supplemental Local Government Sales and Use Taxes.

"§ 105-480. *Short title.*—This Article shall be known as the Supplemental Local Government Sales and Use Tax Act.

"§ 105-481. *Purpose and intent.*—It is the purpose of this Article to afford the counties and cities of this State an opportunity to obtain an added source of revenue with which to meet their growing financial needs, and to reduce their reliance on other revenues, such as the property tax, by providing all counties of the State that are subject to this Article with authority to levy one-half percent (1/2%) sales and use taxes.

"§ 105-482. *Limitations.*—This Article applies only to counties that levy one percent (1%) sales and use taxes under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws and do not levy one-half percent (1/2%) local sales and use taxes under Article 41 of this Chapter.

"§ 105-483. *Levy and collection of additional taxes.*—Any county subject to this Article may levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean Article 40 of Chapter 105. All taxes levied pursuant to this Article shall be collected by the Secretary and may not be collected by a taxing county. The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article.

"§ 105-484. *Form of ballot.*—(a) The form of the question to be presented on a ballot for a special election concerning the additional taxes authorized by this

Article shall be: 'FOR additional one-half percent (1/2%) local sales and use taxes' or 'AGAINST additional one-half percent (1/2%) local sales and use taxes.'

(b) The form of the question to be presented on a ballot for a special election concerning the repeal of any additional taxes levied pursuant to this Article shall be: 'FOR repeal of the additional one-half percent (1/2%) local sales and use taxes' or 'AGAINST repeal of the additional one-half percent (1/2%) local sales and use taxes.'

"§ 105-485. *Retail collection bracket.*—The following bracket applies to collections by retailers in a county that levies additional sales and use taxes under this Article:

(1) No amount on sales of less than 10¢;

(2) 1¢ on sales of 10¢ to 25¢;

(3) 2¢ on sales of 26¢ to 53¢;

(4) 3¢ on sales of 54¢ to 75¢;

(5) 4¢ on sales of 76¢ to 95¢;

(6) 5¢ on sales of 96¢ to $1.22; and

(7) Sales of over $1.22 - straight four and one-half percent (4-1/2%) with major fractions governing.

"§ 105-486. *Distribution and use of additional taxes.*—The Secretary shall, on a quarterly basis, distribute the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The amount distributed to a taxing county shall then be divided among the county and its municipalities in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter.

"§ 105-487. *Use of additional tax revenue by counties and municipalities.*—(a) Except as provided in subsection (c), forty percent (40%) of the revenue received by a county from additional one-half percent (1/2%) sales and use taxes levied under this Article during the first five fiscal years in which the additional taxes are in effect in the county and thirty percent (30%) of the revenue received by a county from these taxes in the second five fiscal years in which the taxes are in effect in the county may be used by the county only for public school capital outlay purposes or to retire any indebtedness incurred by the county for these purposes.

(b) Except as provided in subsection (c), forty percent (40%) of the revenue received by a municipality from additional one-half percent (1/2%) sales and use taxes levied under this Article during the first five fiscal years in which the additional taxes are in effect in the municipality and thirty percent (30%) of the revenue received by a municipality from these taxes in the second five fiscal years in which the taxes are in effect in the municipality may be used by the municipality only for water and sewage capital outlay purposes or to retire any indebtedness incurred by the municipality for these purposes.

(c) The Local Government Commission may, upon petition by a county or municipality, authorize a county or municipality to use part or all its tax revenue, otherwise required by subsection (a) or (b) to be used for public schools or water and sewage capital needs, for any lawful purpose. The petition shall be in the form prescribed by the Local Government Commission and shall demonstrate that the county or municipality can provide for its public school or water and sewage capital needs without restricting the use of part or all of the designated amount of the additional one-half percent (1/2%) sales and use tax revenue for these purposes.

In making its decision, the Local Government Commission may consider information from sources other than the petition. The Commission shall issue a written decision on each petition stating the findings of the Commission concerning the public school or water and sewage capital needs of the petitioning county or municipality and the percentage of revenue otherwise restricted by subsection (a) or (b) that may be used by the petitioning county or municipality for any lawful purpose.

Decisions of the Commission allowing counties or municipalities to use a percentage of their tax revenue that would otherwise be restricted under subsection (a) or (b) for any lawful purpose are final and shall continue in effect until the restrictions imposed by those subsections expire. A county or municipality whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission.

(d) For purposes of determining the number of fiscal years in which one-half percent (1/2%) sales and use taxes levied under this Article have been in effect in a county or municipality, these taxes are considered to be in effect only from the effective date of the levy of these taxes and are considered to be in effect for a full fiscal year during the first year in which these taxes were in effect, regardless of the number of months in that year in which the taxes were actually in effect.

(e) A county or municipality may expend part or all of the revenue restricted for public school or water and sewage capital needs pursuant to subsections (a) and (b) in the fiscal year in which the revenue is received, or the county or municipality may place part or all of this revenue in a capital reserve fund and shall specifically identify this revenue in accordance with Chapter 159 of the General Statutes.

"Article 41.

"Alternative Local Government Sales and Use Taxes.

"§ 105-488. *Short title.*—This Article shall be known as the 'Alternative Local Government Sales and Use Tax Act.'

"§ 105-489. *Limitations.*—This Article applies only to counties that do not levy one percent (1%) sales and use taxes under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws.

"§ 105-490. *Levy and collection of taxes.*—Any county subject to this Article may levy one-half percent (1/2%) local sales and use taxes pursuant to the procedures established in G.S. 105-465 and G.S. 105-466 for the levy of one percent (1%) sales and use taxes authorized by Article 39 of this Chapter. Except as provided in this Article, the provisions of Article 39 of this Chapter apply to any one-half percent (1/2%) local sales and use taxes levied under this Article. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean Article 41 of Chapter 105. All taxes levied

pursuant to this Article shall be collected by the Secretary and may not be collected by a taxing county. The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article.

"§ 105-491. *Form of ballot.*—(a) The form of the question to be presented on a ballot for a special election concerning the taxes authorized by this Article shall be: 'FOR one-half percent (1/2%) local sales and use taxes' or 'AGAINST one-half percent (1/2%) local sales and use taxes.'

(b) The form of the question to be presented on a ballot for a special election concerning the repeal of any taxes levied pursuant to this Article shall be: 'FOR repeal of the one-half percent (1/2%) local sales and use taxes' or 'AGAINST repeal of the one-half percent (1/2%) local sales and use taxes.'

"§ 105-492. *Retail collection bracket.*—The following bracket applies to collections by retailers in a county that levies sales and use taxes under this Article:

(1) No amount on sales of less than 10¢;

(2) 1¢ on sales of 10¢ to 30¢;

(3) 2¢ on sales of 31¢ to 65¢;

(4) 3¢ on sales of 66¢ to 95¢;

(5) 4¢ on sales of 96¢ to $1.28; and

(6) Sales of over $1.28 - straight three and one-half percent (3-1/2%) with major fractions governing.

"§ 105-493. *Distribution and use of taxes.*—The Secretary shall, on a quarterly basis, distribute the net proceeds of any one-half percent (1/2%) sales and use taxes levied under this Article in accordance with G.S. 105-486. For purposes of the distribution under G.S. 105-486, a county that levies one-half percent (1/2%) sales and use taxes under this Article is considered a taxing county under that section. To make the distribution required by G.S. 105-486 and this section, the Secretary shall add the net proceeds of local sales and use taxes levied under Article 40 of this Chapter and under this Article, and shall then distribute this amount to the taxing counties on a per capita basis as provided in G.S. 105-486. The amount distributed to a county that levies one-half percent (1/2%) sales and use taxes under this Article shall be divided among the county and its municipalities on either a per capita or an ad valorem tax basis, as designated by the board of county commissioners in a resolution adopted pursuant to G.S. 105-472. If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter.

"§ 105-494. *Use of additional tax revenue by counties and municipalities.*—Sales and use tax revenue received by a county or municipality from one-half percent (1/2%) sales and use taxes levied under this Article are subject to the restrictions imposed by G.S. 105-487 on revenue received by counties and municipalities from one-half percent (1/2%) sales and use taxes levied under that Article."

Sec. 2. G.S. 159-6 is amended by adding a new subsection to read:

"(e) In addition to any other fees authorized by this section, the Commission may charge and collect fees for services rendered and expenses incurred in reviewing and processing petitions of counties or cities concerning use of local sales and use tax revenue in accordance with G.S. 105-487(c)."

Part II. Repeal of Authority to Issue Clean Water Bonds.

Sec. 3. (a) Sections 4 and 5 of Chapter 993, Session Laws of 1981 are repealed, and no bonds may be issued under that act.

(b) Section 54 of Chapter 1282, Session Laws of 1981 (Regular Session 1982) is repealed.

Part III. Sales Tax Revenue for Housing.

Sec. 4. G.S. 160A-456(e) is rewritten to read:

"(e) A city council of a city with a population of at least seventy-five thousand may expend up to twenty percent (20%) of its annual sales and use tax revenue derived from one-half percent (1/2%) local sales and use taxes levied pursuant to Article 40 or 41 of Chapter 105 of the General Statutes for housing projects undertaken pursuant to Chapter 157 of the General Statutes, except that none of this revenue may be expended for rent subsidies. Otherwise, a city council of any city may not expend State or local tax revenue pursuant to this section for a purpose not expressly authorized by G.S. 160A-209 unless the issue is first submitted to a vote of the people as provided therein. The most recent annual estimates of population certified by the State Budget Officer shall be used to determine the population of a city under this subsection."

Part IV. Mecklenburg Occupancy Tax.

Sec. 5. It is the purpose and intent of this Part to provide Mecklenburg County the authority to levy a transient occupancy tax as hereinafter set forth.

Sec. 6. (a) Mecklenburg County is hereby authorized to impose and levy a tax not to exceed three percent (3%) of the gross receipts of any person, firm, corporation or association derived from the rental of any sleeping room or lodging furnished in any hotel, motel, or inn located in Mecklenburg County and subject to the three percent (3%) sales tax levied by the State of North Carolina. The tax shall not apply, however, to any room or rooms, lodging or accommodations supplied to the same person for a period of 90 continuous days or more. The tax shall also not apply to sleeping rooms or lodgings furnished by charitable, educational, benevolent or religious institutions or organizations not operated for profit.

(b) Before adopting or amending an ordinance imposing and levying such a tax, the board of commissioners shall hold a public hearing on the ordinance or amendment. The Board shall cause notice of the hearing to be published not less than 10 days nor more than 25 days before the date fixed for the hearing.

Sec. 7. (a) Such tax, if levied, shall be due and payable to the county in monthly installments on or before the 15th of the month next succeeding the month in which the tax accrues. Every person, firm, corporation or association liable for the tax imposed pursuant to this Part shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county, a true and correct statement showing the total gross receipts derived in the preceding month from rentals upon which the tax is levied. Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of the calendar month set by the board of commissioners in the ordinance levying the tax.

(b) Any person, firm, corporation or association who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission.

(c) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing such return or for paying such tax,

there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, in addition to the penalty prescribed in subsection (b) hereof, with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.

(d) Any person who willfully attempts in any manner to evade the occupancy tax, if levied on any person required to pay the occupancy tax, or to make a return and who willfully fails to pay such tax or make and file such return, shall, in addition to the penalties provided by law be guilty of a misdemeanor, and shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment not to exceed six months, or by both such fine and imprisonment.

Sec. 8. Mecklenburg County shall allocate the net proceeds collected as follows:

(a) Mecklenburg County shall retain from the gross proceeds of the tax collected an amount sufficient to pay its direct costs for administrative and collection expenses. "Net proceeds" shall mean gross proceeds less direct costs for administrative and collection expenses not to exceed three percent (3%).

(b) At least fifty percent (50%) of the first one million dollars ($1,000,000) of net proceeds from the tax in a fiscal year, at least thirty-five percent (35%) of the second one million dollars ($1,000,000) of net proceeds from the tax in a fiscal year, and at least twenty-five percent (25%) of the net proceeds in excess of two million dollars ($2,000,000) from the tax in the fiscal year shall be allocated for activities and programs aiding and encouraging convention and visitor promotion. These amounts shall be transferred by Mecklenburg County to the City of Charlotte for allocation by the City of Charlotte for activities and programs aiding and encouraging convention and visitor promotion, and in so doing, the City of Charlotte shall be acting as agent for Mecklenburg County.

(c) The amount of net proceeds remaining after allocation of the sums for activities and programs aiding and encouraging convention and visitor promotion shall be allocated by Mecklenburg County among itself and each municipality in Mecklenburg County (presently Charlotte, Cornelius, Davidson, Huntersville, Matthews, Mint Hill and Pineville) using the following formula: the ratios of expenditures by the county and each municipality for acquiring, constructing, financing (including debt service), maintaining and operating convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums (including off-street parking facilities for use in conjunction therewith) and for visitor-related programs and activities including, but not limited to, museums and other art or cultural programs, events, or festivals as such bears to total county and municipal expenditures for such purposes. Such ratios shall be computed annually on the basis of the prior fiscal years's expenditures. As to the municipalities, the maximum amount payable by Mecklenburg County to each municipality shall be the net proceeds collected from hotels, motels and inns located within the corporate limits of said municipality.

(d) The proceeds distributed and retained pursuant to subsection (c) may be expended by Mecklenburg County and the municipalities only for acquiring, constructing, financing (including debt service), maintaining and operating convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums (including off-street parking facilities for use in conjunction therewith) and for visitor-related programs and activities including,

but not limited to, museums and other art or cultural programs, events, or festivals.

(e) Mecklenburg County shall distribute the amounts due each municipality by the 20th day of the month in which the tax is collected.

Sec. 9. Mecklenburg County and each municipality located within Mecklenburg County are hereby each individually authorized to contract with any person, agency, association or nonprofit corporation to undertake or carry out any of the activities and programs for which the tax proceeds levied by this act may be expended. Any contract entered into pursuant to this section shall contain provisions requiring an annual financial audit of any funds expended and a performance audit of contractual obligations.

Part V. Haywood Occupancy Tax.

Sec. 10. Levy of Tax. (a) The Haywood County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy and tourism development tax.

(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the Haywood County Board of Commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

Sec. 11. Occupancy Tax. The county room occupancy and tourism development tax that may be levied under this Part shall be two percent (2%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious organizations.

Sec. 12. Administration of Tax. (a) Any tax levied under this Part is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission.

(c) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.

(d) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this Part or to make a return and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not

to exceed one thousand dollars ($1,000) or by imprisonment not to exceed six months, or both.

Sec. 13. Collection of Tax. Every operator of a business subject to the tax levied pursuant to this Part shall, on and after the effective date of the levy of the tax, collect the two percent (2%) room occupancy tax.

This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Haywood County. It is the intent of this Part that the room occupancy tax levied by Haywood County shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Sec. 14. Disposition of Taxes Collected. Haywood County shall remit the net proceeds of all revenues received from the room occupancy tax to the county Tourism Development Authority appointed pursuant to this Part. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax. The Authority may expend these funds only to further the development of travel, tourism, and conventions in the county through State, national, and international advertising and promotion.

Sec. 15. Appointments, Duties of Tourism Development Authority. (a) When the Haywood County Board of Commissioners adopts a resolution levying a room occupancy tax pursuant to this Part, it shall also adopt a resolution creating a County Tourism Development Authority composed of nine voting members appointed as follows:

(1) three tourist-oriented business members appointed by the Board of Directors of the Maggie Valley Chamber of Commerce;

(2) three tourist-oriented business members appointed by the Board of Directors of the Haywood County Chamber of Commerce; and

(3) three tourist-oriented business members at large appointed by the Haywood County Board of Commissioners.

Each Chamber's Board of Directors and the Board of County Commmissioners shall designate one of its initial appointees to serve a one-year term, one to serve a two-year term, and one to serve a three-year term. Thereafter, all members shall serve three-year terms. Vacancies shall be filled by the appointing authority of the member who created the vacancy. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill.

(b) The members of the Tourism Development Authority shall elect from its membership a chairman. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The finance officer of Haywood County shall serve ex officio as accountant for the Authority.

(c) The Tourism Development Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and disbursements for the preceding quarter and for the year in such detail as the Board may require.

Sec. 16. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Haywood County, but

no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this Part that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal.

Part VI. Buncombe Occupancy Tax.

Sec. 17. Levy of Tax. (a) The Board of Commissioners of Buncombe County may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy and tourism development tax.

(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the board of county commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

Sec. 18. Occupancy Tax. The county room occupancy and tourism development tax that may be levied under this Part shall be two percent (2%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any local sales tax. This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:

(1) religious organizations;

(2) educational organization;

(3) any business that offers to rent fewer than five units; and

(4) summer camps.

Sec. 19. Administration of Tax. (a) Any tax levied under this Part is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission.

(c) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, in addition to the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.

(d) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this Part or to make a return and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment not to exceed six months, or both.

Sec. 20. Collection of Tax. Every operator of a business subject to the tax levied by this Part shall, on and after the effective date of the levy of the tax, collect the two percent (2%) room occupancy tax. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Buncombe County. The room occupancy tax levied pursuant to this Part shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses in Buncombe County the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Sec. 21. Disposition of Taxes Collected. (a) Buncombe County shall remit the net proceeds of the occupancy tax to the county Tourism Development Authority in Buncombe County. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax.

(b) The Authority may expend any funds distributed to it pursuant to subsection (a) only to further the development of travel, tourism, and conventions in the county through State, national, and international advertising and promotion. The Authority may not use more than ten percent (10%) of the funds distributed to it pursuant to subsection (a) for administrative expenses of the Authority.

Sec. 22. Appointment, Duties of Tourism Development Authority. (a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following nine members:

(1) a county commissioner appointed by the board of county commissioners, who shall serve as an ex officio, nonvoting member;

(2) a member of the Asheville City Council appointed by the board of county commissioners, who shall serve as an ex officio, nonvoting member;

(3) four owners or operators of hotels, motels, or other taxable tourist accommodations, two of which own or operate hotels, motels, or other accommodations with more than 100 rental units, one of whom shall be appointed by the Asheville City Council and one by the board of county commissioners; and two of which own or operate hotels, motels, or other accommodations with 100 or fewer rental units, one of whom shall be appointed by the Asheville City Council and one by the board of county commissioners;

(4) three individuals involved in the tourist business who have demonstrated an interest in tourist development and do not own or operate hotels, motels, or other taxable tourist accommodations, appointed as follows: one by the Asheville City Council, one by the Asheville Area Chamber of Commerce, and one by the board of county commissioners.

All members of the Authority shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members

shall serve three-year terms, except the initial members who shall serve the following terms:

(1) members appointed pursuant to subdivisions (1) and (2) above shall serve one-year terms;

(2) of the members appointed pursuant to subdivision (3) above, one appointee of the city council and the board of commissioners shall serve a two-year term and one appointee of the city council and the board of commissioners shall serve a three-year term, as designated by the city council and board of county commissioners;

(3) of the three members appointed pursuant to subdivision (4) above, the appointee of the Asheville City Council shall serve a one-year term, the appointee of the Asheville Area Chamber of Commerce shall serve a two-year term, and the appointee of the board of county commissioners shall serve a three-year term.

Members may serve no more than two consecutive terms. The members shall elect a chairman, who shall serve for a term of two years. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The finance officer for Buncombe County shall be the ex officio finance officer of the Authority.

(b) The Tourism Development Authority may contract with any person, firm, or agency to advise and assist it in the promotion of travel, tourism, and conventions and may recommend to the board of county commissioners that county staff be employed for this advice and assistance. Any county staff employed under this Part shall be hired and supervised by the Tourism Development Authority, which shall pay the salaries and expenses of this staff.

(c) The Tourism Development Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 23. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Buncombe County, but no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this Part that attached prior to the date on which a levy is repealed shall be discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed shall be denied as a result of the repeal.

Part VII. Forsyth Occupancy Tax.

Sec. 24. Levy of Tax. (a) The Board of Commissioners of Forsyth County may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy and tourism development tax.

(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the board of county commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

Sec. 25. Occupancy Tax. The county room occupancy and tourism development tax that may be levied under this Part shall be two percent (2%) of the gross receipts derived from the rental of any room, lodging, or similar

accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any local sales tax. This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:

(1) religious organizations;

(2) educational organizations;

(3) any business that offers to rent fewer than five units; and

(4) summer camps.

Sec. 26. Administration of Tax. (a) Any tax levied under this Part is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission.

(c) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, in addition to the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.

(d) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this Part or to make a return and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment not to exceed six months, or both.

Sec. 27. Collection of Tax. Every operator of a business subject to the tax levied by this Part shall, on and after the effective date of the levy of the tax, collect the two percent (2%) room occupancy tax. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Forsyth County. The room occupancy tax levied pursuant to this Part shall be added to the sales price and shall be passed onto the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses in Forsyth County the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Sec. 28. Disposition of Taxes Collected. (a) Forsyth County shall remit the net proceeds of the occupancy tax to the county Tourism Development Authority in Forsyth County. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax.

(b) The Authority may expend any funds distributed to it pursuant to subsection (a) only to further the development of travel, tourism, and conventions in the county through State, national, and international advertising and promotion. The Authority may not use more than ten percent

(10%) of the funds distributed to it pursuant to subsection (a) for administrative expenses of the Authority.

Sec. 29. Appointment, Duties of Tourism Development Authority. (a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following nine members:

(1) a county commissioner appointed by the board of county commissioners, who shall serve as an ex officio, nonvoting member;

(2) a member of the Winston-Salem City Council appointed by the board of county commissioners, who shall serve as an ex officio, nonvoting member;

(3) four owners or operators of hotels, motels, or other taxable tourist accommodations, two of which own or operate hotels, motels, or other accommodations with more than 100 rental units, one of whom shall be appointed by the Winston-Salem City Council and one by the board of county commissioners; and two of which own or operate hotels, motels, or other accommodations with 100 or fewer rental units, one of whom shall be appointed by the Winston-Salem City Council and one by the board of county commissioners;

(4) three individuals involved in the tourist business who have demonstrated an interest in tourist development and do not own or operate hotels, motels, or other taxable tourist accommodations, appointed as follows: one by the Winston-Salem City Council, one by the Winston-Salem Area Chamber of Commerce, and one by the board of county commissioners.

All members of the Authority shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members shall serve three-year terms, except the initial members who shall serve the following terms:

(1) members appointed pursuant to subdivisions (1) and (2) above shall serve one-year terms;

(2) of the members appointed pursuant to subdivision (3) above, one appointee of the city council and the board of commissioners shall serve a two-year term and one appointee of the city council and the board of commissioners shall serve a three-year term, as designated by the city council and board of county commissioners;

(3) of the three members appointed pursuant to subdivision (4) above, the appointee of the Winston-Salem City Council shall serve a one-year term, the appointee of the Winston-Salem Area Chamber of Commerce shall serve a two-year term, and the appointee of the board of county commissioners shall serve a three-year term.

Members may serve no more than two consecutive terms. The members shall elect a chairman, who shall serve for a term of two years. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The finance officer for Forsyth County shall be the ex officio finance officer of the Authority.

(b) The Tourism Development Authority may contract with any person, firm, or agency to advise and assist it in the promotion of travel, tourism, and conventions and may recommend to the board of county commissioners that county staff be employed for this advice and assistance. Any county staff employed under this Part shall be hired and supervised by the Tourism Development Authority, which shall pay the salaries and expenses of this staff.

(c) The Tourism Development Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 30. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Forsyth County, but no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this Part that attached prior to the date on which a levy is repealed shall be discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed shall be denied as a result of the repeal.

Part VIII. New Hanover Occupancy Tax.

Sec. 31. Levy of Tax. (a) The New Hanover County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax.

(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the New Hanover County Board of Commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

Sec. 32. Occupancy Tax. The county room occupancy tax that may be levied under this Part shall be two percent (2%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county that is subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious organizations.

Sec. 33. Administration of Tax. (a) Any tax levied under this Part is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission.

(c) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, in addition to the penalty prescribed in subsection (b), with an additional tax of

five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.

(d) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this Part or to make a return and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment not to exceed six months, or both.

Sec. 34. Collection of Tax. Every operator of a business subject to the tax levied by this Part shall, on and after the effective date of the levy of the tax, collect the two percent (2%) room occupancy tax provided by this Part.

This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of New Hanover County. It is the intent of this Part that the room occupancy tax levied by New Hanover County shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Sec. 35. Disposition of Taxes Collected. (a) New Hanover County shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the county and its municipalities in accordance with the method by which the one percent (1%) local sales and use taxes levied in the county pursuant to Article 39 of Chapter 105 of the General Statutes are distributed. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax.

(b) All revenue received by New Hanover County or its municipalities from the room occupany tax shall be used as follows:

(1) eighty percent (80%) of the revenue shall be used to control beach erosion; and

(2) twenty percent (20%) of the revenue shall be used to promote travel and tourism, except that none of this revenue may be used to plan, construct, operate, maintain, or in any way promote a civic center, convention center, public auditorium, or like facility.

The purposes for which revenue from the room occupancy tax may be used by the county and its municipalities may be changed only by resolution of the New Hanover Board of County Commissioners after being approved by a majority of the votes cast in an election held in New Hanover County on the question of how revenue from the room occupancy tax should be used. The ballot presented to the qualified voters of the county in an election concerning the use of revenue from the room occupancy tax shall state all the proposed uses of this revenue and the percentage of the revenue to be used for each purpose. Any change in use of revenue from the room occupancy tax made by the county commissioners after voter approval may likewise be changed only by resolution of the county commissioners after being approved by the voters in another election.

The question of how revenue from the room occupancy tax should be spent may be submitted to the qualified voters of the county only in a statewide

general election. All elections under this section shall be conducted in accordance with the laws then governing elections in this State.

Sec. 36. Repeal of Levy. (a) The board of commissioners may by resolution repeal the levy of the room occupancy tax in new Hanover County, but no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this Part that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal.

Part IX. City Occupancy Taxes.

Sec. 37. The governing body of a city may by resolution levy a tax on the gross receipts from the rental of accommodations within the corporate limits of the city, not to exceed three percent (3%). This tax applies to the rental of accommodations subject to sales tax under G.S. 105-164.4(3) and to the rental of all private residences and cottages, regardless whether the residence or cottage is rented for less than 15 days.

Sec. 38. The city tax collector shall collect and administer the occupancy tax levied by the governing body of the city pursuant to this Part. The governing body of the city may adopt rules as needed by the tax collector to implement this Part.

Sec. 39. Every owner of a business subject to the tax levied by this Part shall, on and after the first day of the calendar month set by the governing body in the resolution levying the tax, collect the occupancy tax provided by this Part. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the owner of the business as trustee for and on account of the city. The occupancy tax levied under this Part shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the owner of the business. The city tax collector shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. Every person liable for the tax imposed pursuant to this Part shall, on or before the 15th day of each month, prepare and submit a return on the prescribed form stating the total gross receipts derived during the preceding month from rentals upon which the tax is levied. The tax shall be due and payable to the tax collector on a monthly basis.

Any person who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission. In addition, any person who refuses to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax shall pay a penalty of five percent (5%) of the tax due. An additional penalty of five percent (5%) shall be imposed for each additional month or fraction thereof in which the occupancy tax is not paid.

Any person who willfully attempts in any manner to evade the occupancy tax or who willfully fails to pay the tax or make and file the required return, shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both.

Sec. 40. The tax collector shall remit the proceeds of this tax to the city on a monthly basis. The funds received by the city pursuant to this Part shall be allocated to a special fund and used only for tourism-related expenditures. As used in this act, the term "tourism-related expenditures" includes the following types of expenditures: criminal justice system, fire protection, public facilities and utilities, health facilities, solid waste and sewage treatment, and the control and repair of water front erosion. These funds may not be used for services normally provided by the city on behalf of its citizens unless these services promote tourism and enlarge its economic benefits by enhancing the ability of the city to attract and provide for tourists.

Sec. 41. The city tax collector may collect any unpaid taxes levied under this Part through the use of attachment and garnishment proceedings as provided in G.S. 105-368 for collection of property taxes. The city tax collector has the same enforcement powers concerning the tax imposed by this act as does the Secretary of Revenue in enforcing the State sales tax under G.S. 105-164.30.

Sec. 42. The governing body of a city may by resolution repeal the levy of the occupancy tax authorized by this Part. No liability for any tax levied under this Part that attached prior to the date on which a levy is repealed is discharged by the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed shall be denied as a result of the repeal.

Sec. 43. The definitions set forth in G.S. 105-164.3 apply to this Part insofar as those definitions are not inconsistent with this Part.

Sec. 44. This Part applies only to the Town of Ocean Isle Beach, the Town of Topsail Beach, and Surf City.

Part X. Effective Dates.

Sec. 45. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 830 CHAPTER 909

AN ACT TO ESTABLISH A COMMUNITY PENALTIES PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. A new Part 6 is added to Article 11 of Chapter 143B of the General Statutes to read as follows:

"Part 6. Community Penalties Program.

"§ 143B-500. *Purpose.*—This Part shall be known and may be cited as the 'Community Penalties Act of 1983'. The purpose of this Part is to reduce prison overcrowding by providing the judicial system with community sentences to be used in lieu of and at less cost than imprisonment. In furtherance of this purpose, this Part provides for the following:

(1) Establishment of local sentencing alternatives for felons who require less than institutional custody but more than regular probation supervision.

(2) Increased opportunities for nonviolent felons to make restitution to victims of crime through financial reimbursement or community service.

(3) Local involvement in the development of community penalties to assure that they are specifically designed to meet local needs.

(4) Reduced expenditures of State funds through an emphasis on alternative penalties for offenders so that new prisons need not be built or new space added.

"§ 143B-501. *Definitions.*—As used in this Part:

(1) 'Judicial district' means the districts prescribed in G.S. 7A-41.

(2) 'Secretary' means the Secretary of the Department of Crime Control and Public Safety.

(3) 'Targeted offenders' means persons convicted of nonviolent misdemeanors or nonviolent Class H, I, or J felonies who are facing an imminent and substantial threat of imprisonment.

(4) 'Community penalty plan' means a plan presented in writing to the sentencing judge which provides a detailed description of the targeted offender's proposed community penalty.

(5) 'Community penalties program' means an agency within the judicial district which shall (a) prepare community penalty plans; (b) arrange or contract with public and private agencies for necessary services for offenders; and (c) monitor the progress of offenders placed on community penalty plans.

"§ 143B-502. *Allocation of funds.*—The Secretary may award grants in accordance with the policies established by this Part and within the limits of any appropriation made for that purpose, and adopt regulations for the implementation, operation, and monitoring of community penalties programs. Community penalties programs that are grantees shall use such funds to develop, implement, and monitor community penalty plans. Grants shall be awarded by the Secretary to agencies whose comprehensive program plans promise best to meet the goals set forth herein.

"§ 143B-503. *Responsibilities of a community penalties program.*—A community penalties program shall be responsible for:

(1) Targeting offenders who face an imminent and substantial threat of imprisonment.

(2) Preparing detailed community penalty plans for presentation to the sentencing judge by the offender's attorney.

(3) Contracting or arranging with public or private agencies for services described in the community penalty plan.

(4) Monitoring the progress of offenders under community penalty plans.

"§ 143B-504. *Requirements for a comprehensive community penalties program plan.*—Agencies applying for grants shall prepare a comprehensive community penalties program plan for the development, implementation, operation, and improvement of a community penalties program for the judicial district, as prescribed by the Secretary. Such plan shall include:

(1) Objectives of the community penalties program.

(2) Goals for reduction of offenders committed to prison for each county within the district, and a system of monitoring the number of commitments to prison.

(3) Procedures for identifying targeted offenders, and a plan for referral of targeted offenders to the community penalties program.

(4) Procedures for preparing and presenting community penalty plans to the court.

(5) Procedures for obtaining services from existing public or private agencies, and a detailed budget for staff, contracted services, and all other costs.

(6) Procedures for monitoring the progress of offenders on community penalty plans and for cooperating with the probation personnel who have supervisory responsibility for the offender.

(7) Procedures for returning offenders who do not comply with their community penalty plan to court for action by the court.

(8) Procedures for evaluating the program's effect on numbers of prison commitments.

"§ 143B-505. *Advisory board.*—Each community penalties program shall establish a community penalties advisory board to provide advice and assistance to the community penalties program in the implementation and evaluation of the plan. The advisory board shall consist of not less than 12 members, and shall include, insofar as possible, judges, district attorneys, attorneys, social workers, law enforcement officers, probation officers, and other interested persons. The advisory board shall meet on a regular basis and advise the community penalties program.

"§ 143B-506. *Limitation on funds.*—Funds provided for use under the provisions of this act shall not be used for the operating costs, construction, or any other costs associated with local jail confinement.

"§ 143B-507. *Evaluation.*—The Secretary shall evaluate each community penalties program on an annual basis to determine the degree to which the prison commitments have been reduced or have kept from increasing as a result of the community penalties program. The Secretary shall not renew or continue a program that has failed to affect commitments and that shows no promise of doing so in the future, after allowing for changes in the number of convictions."

Sec. 2. This act shall be funded by allocation of funds appropriated to the Department of Crime Control and Public Safety in 1983 Session Laws Chapter 761.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

H. B. 1072 CHAPTER 910

AN ACT TO PROVIDE FUNDING FOR THE JUVENILE LAW STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Department of Administration shall transfer funds or budget excess receipts as such funds or receipts become available to meet the expenses of the Juvenile Law Study Commission for fiscal year 1983-84 to carry out the purposes of Article 58 of Chapter 7A of the General Statutes. These expenses shall be limited to a maximum of ten thousand dollars ($10,000), and such requests for funding are subject to the approval of the Director of the Budget.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

S. B. 699

CHAPTER 911

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT OF THE SENATE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President of the Senate; and

Whereas, the President of the Senate has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Ernest E. Ford, Sr. of Columbus County (experienced with a savings and loan institution) is appointed to the Housing Finance Agency for a term to expire on June 30, 1985. George Hayworth of Forsyth County and William Earl Antone of Robeson County are appointed to the Housing Finance Agency for terms to expire on June 30, 1985.

Sec. 2. Dr. N. Andrew Miller of Buncombe County (a local school superintendent) is appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for a term to expire on June 30, 1987. E. V. Wilkins of Washington County is appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for a term to expire on June 30, 1987.

Sec. 3. W. David Stedman of Randolph County is appointed to the Board of Trustees of the North Carolina Museum of Art for a term to expire on June 30, 1985.

Sec. 4. Alice Wynne Gatsis of Nash County is appointed to the Board of Trustees of The University of North Carolina Center for Public Television for a term to expire on June 30, 1985.

Sec. 5. Jeanie Renegar of New Hanover County and Carlos L. Young of Cleveland County are appointed to the Commission for Mental Health, Mental Retardation and Substance Abuse Services for terms to expire on June 30, 1985.

Sec. 6. Charles R. Vance, Jr., of Johnston County is appointed to the Public Officers and Employees Liability Insurance Commission for a term to expire on June 30, 1987.

Sec. 7. James C. Spencer, Jr., of Alamance County is appointed to the Property Tax Commission for a term to expire on June 30, 1987.

Sec. 8. M. L. Byrd of Davidson County is appointed to the Board of Trustees Teachers' and State Employees' Retirement System for a term to expire on June 30, 1985.

Sec. 9. Robert Z. Falls of Cleveland County is appointed to the State Farm Operations Commission for a term to expire on June 30, 1985.

Sec. 10. Dr. Richard W. Adams of Iredell County is appointed to the Wildlife Resources Commission for a term to expire on June 30, 1985.

Sec. 11. William F. Troxler of Wake County is appointed to the North Carolina Board of Science and Technology for a term to expire on June 30, 1985.

Sec. 12. Donald W. Bullard of Robeson County is appointed to the Commission of Indian Affairs for a term to expire on June 30, 1985.

Sec. 13. Sneed High of Cumberland County and Clarence Beasley of Craven County are appointed to the North Carolina State Ports Authority for terms to expire on June 30, 1985.

Sec. 14. W. Frank McCray of Cabarrus County is appointed to the Board of Transportation for a term to expire on June 30, 1985.

Sec. 15. Wanda J. Proffitt of Yancey County and Thomas Ellis of Durham County are appointed to the Board of Trustees of the North Carolina Land Conservancy Corporation for terms to expire on June 30, 1985.

Sec. 16. Alton G. Elmore of Chowan County and Larry Fitzpatrick of Onslow County are appointed to the Environmental Management Commission for terms to expire on June 30, 1985.

Sec. 17. Gerald Wain Gaskill of Carteret County is appointed to the Seafood Industrial Park Authority for a term to expire on June 30, 1985.

Sec. 18. Joanne Brannon Aldridge of Watauga County and Louis H. Comer of Surry County are appointed to the Board of Public Telecommunications Commissioners for terms to expire on June 30, 1985.

Sec. 19. Henry L. Bridges of Wake County is appointed to the State Fire Commission for a term to expire on June 30, 1985.

Sec. 20. George Lenward Foxwell of Wake County is appointed to the Governor's Waste Management Board for a term to expire on June 30, 1985.

Sec. 21. David Helberg of Guilford County is appointed to the Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund for a term to expire on June 30, 1985.

Sec. 22. Theodore P. Nordman of Mecklenburg County and Frank A. Ward of Durham County are appointed to the Capital Building Authority for terms to expire on June 30, 1985.

Sec. 23. David K. Clark of Bladen County is appointed to the North Carolina Criminal Justice Education and Training Standards Commission for a term to expire on June 30, 1985.

Sec. 24. Rosemond Tipton of Pitt County is appointed to the Committee on Art in State Buildings for a term to expire on June 30, 1985.

Sec. 25. Ralph A. Kimel of Davidson County, Dr. Darrell A. Trull of Cabarrus County, and Judith Barnes Seamon of Carteret County are appointed to the North Carolina Board for Need Based Student Loans for terms to expire on July 1, 1986.

Sec. 26. Estelle C. Lee of New Hanover County is appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term to expire on June 30, 1984. H. Lee Curry of Mecklenburg County, and Dewitt Sullivan of Durham County are appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for terms to expire on June 30, 1985.

Sec. 27. Joseph I. Marshall of Rockingham County is appointed to the State Banking Commission for a term to expire on April 1, 1987.

Sec. 28. David A. Smith of Davidson County is appointed to the North Carolina Milk Commission for the Grade A producer categorical appointment for a term to expire on June 30, 1986. Dr. Vila Rosenfeld of Pitt County is appointed to the North Carolina Milk Commission as a public member for a term to expire on June 30, 1987.

Sec. 29. Dr. Fletcher Keith of Mecklenburg County is appointed to the State Board of Chiropractic Examiners for a term to expire on June 30, 1986.

Sec. 30. Raymond W. Goodman of Richmond County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term to begin on September 1, 1983, and to expire on September 1, 1985.

Sec. 31. E. Eugene Boyer of Iredell County is appointed to the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan for a term to expire on June 30, 1986.

Sec. 32. S. Thomas Walton of Buncombe County and James Lester Rhew of Buncombe County are appointed to the Private Protective Services Board for terms to expire on June 30, 1987.

Sec. 33. Donnie Wayne Brewer of Pitt County is appointed to the North Carolina Housing Commission for a term to expire on June 30, 1985. Joe E. Harris, Sr., of Surry County and Lawrence Ed Tipton of Pitt County are appointed to the North Carolina Housing Commission for terms to expire on June 30, 1986.

Sec. 34. All appointments made by this act are for terms to begin on the effective date of this act.

Sec. 35. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

H. B. 806 CHAPTER 912

AN ACT TO CLARIFY THE DUTY TO STOP IN EVENT OF A MOTOR VEHICLE ACCIDENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-166 is amended by rewriting subsections (a), (b), and (c) and adding a new subsection (c1) to read:

"(a) The driver of any vehicle who knows or reasonably should know:

(1) that the vehicle which he is operating is involved in an accident or collision; and

(2) that the accident or collision has resulted in injury or death to any person;

shall immediately stop his vehicle at the scene of the accident or collision. He shall remain at the scene of the accident until a law enforcement officer completes his investigation of the accident or collision or authorizes him to leave; provided, however, that he may leave to call for a law enforcement officer or for medical assistance or medical treatment as set forth in (b), but must return to the accident scene within a reasonable period of time. A willful violation of this subsection shall be punished as a Class I felony.

(b) In addition to complying with the requirement of (a), the driver as set forth in (a) shall give his name, address, driver's license number and the license plate number of his vehicle to the person struck or the driver or occupants of any vehicle collided with, provided that such person or persons are physically and mentally capable of receiving such information, and shall render to any person injured in such accident or collision reasonable assistance, including the calling for medical assistance if it is apparent that such assistance is necessary or is requested by the injured person. Violation of this subsection shall be punished as a misdemeanor.

(c) The driver of any vehicle, when he knows or reasonably should know that the vehicle which he is operating is involved in an accident or collision, which accident or collision results:

(1) only in damage to property; or

(2) in injury or death to any person, but which injury or death was not apparent to the operator of the other vehicle;

shall immediately stop his vehicle at the scene of the accident or collision. Violation of this subsection shall be punished as a misdemeanor.

(c1) In addition to complying with the requirement of (c), the driver as set forth in (c) shall give his name, address, driver's license number and the license plate number of his vehicle to the driver or occupants of any other vehicle involved in the accident or collision or to any person whose property is damaged in the accident or collision. If the damaged property is a parked and unattended vehicle and the name and location of the owner is not known to or readily ascertainable by the driver of the responsible vehicle, the said driver shall furnish the information required by this subsection to the nearest available peace officer, or, in the alternative, and provided he thereafter within 48 hours fully complies with G.S. 20-166.1(c), shall immediately place a paper-writing containing said information in a conspicuous place upon or in the damaged vehicle. If the damaged property is a guardrail, utility pole, or other fixed object owned by the Department of Transportation, a public utility, or other public service corporation to which report cannot readily be made at the scene, it shall be sufficient if the responsible driver shall furnish the information required to the nearest peace officer or make written report thereof containing said information by U.S. certified mail, return receipt requested, to the North Carolina Division of Motor Vehicles within five days following said collision. Any person violating the provisions of this subsection shall be guilty of a misdemeanor."

Sec. 2. G.S. 20-182 is repealed.

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

H. B. 517 CHAPTER 913

AN ACT TO REVISE THE STATUTES RELATING TO THE STATE AUDITOR.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 147 is repealed except for G.S. 147-62, 63 and 64 which are recodified as provided herein.

Sec. 2. Chapter 147 of the General Statutes is amended by adding a new Article 5A to read:

"ARTICLE 5A.

"Auditor.

"§ 147-64.1. *Auditor's salary; office location.*—The salary of the State Auditor shall be the same as for superior court judges as set by the General Assembly in the Budget Appropriations Act. The Auditor's office shall be in the City of Raleigh.

"§ 147-64.2. *Legislative policy and intent.*—The General Assembly is ultimately responsible for authorizing the expenditure of public moneys, designating the sources from which moneys may be collected, and shaping the administrative structure to perform the work of government throughout the State, and is held finally accountable for how the funds are spent and what is

accomplished with them. The Legislature should, therefore, provide the basic direction for audits of State agencies.

In the interest of reducing audit overlap and expense at all levels of government, the General Assembly and the Auditor should promote, to the extent possible, coordinated nonduplicating audits of public programs and activities of all governmental levels throughout the State.

It is the intent of this Article that all State agencies, and entities supported, partially or entirely, by public funds be subject to audit under the policy guidance of the Auditor. Such audits shall be made to assist in furnishing the General Assembly, the Governor, the executive departments and agencies of the State, the governing bodies and executive departments of the political subdivisions of the State, and the public in general with an independent evaluation of public program performance.

"§ 147-64.3. *Legislative and management control system.*—It is the intent of this Article that the State Auditor shall perform or coordinate all audit functions for State government. As appropriate, all State agencies are encouraged to establish, maintain, and use effective systems of management control. The adequacy of these control systems will be reviewed by the Auditor. The Auditor may, at his discretion, use such reviews to limit his audit activity or to suggest guidelines, make recommendations, and provide assistance where necessary within the resources available.

"§ 147-64.4. *Definitions.*—The words and phrases used in this Article have the following meanings:

(1) 'Audit'. An independent review or examination of government organizations, programs, activities, and functions. The purpose of an audit is to help ensure full accountability and assist government officials and employees in carrying out their responsibilities. The elements of such an audit are:

a. Financial and compliance: to determine whether financial operations are properly conducted, whether the financial reports of an audited entity are presented fairly, and whether the entity has complied with applicable laws and regulations; and,

b. Economy and efficiency: to determine whether the entity is managing or utilizing its resources (such as personnel and property) in an economical and efficient manner and the causes of any inefficiencies or uneconomical practices, including inadequacies in laws and regulations, management information systems, administrative policies and procedures, or organizational structures; and,

c. Program results: to determine whether the desired results or benefits are being achieved, whether the objectives established by the General Assembly or other authorizing body are being met, and whether the agency has considered alternatives which might yield desired results at lower costs.

d. An audit may include all three elements or only one or two. It is not intended or desirable that every audit include all three. Economy and efficiency and program result audits should be selected when their use will meet the needs of expected users of audit results.

(2) 'Accounting system'. The total structure of records and procedures which discover, record, classify, and report information on the financial position and operating results of a governmental unit or any of its funds, balanced account groups, and organizational components.

(3) 'Federal agency'. Any department, agency, or instrumentality of the federal government and any federally owned or controlled corporation.

(4) 'State agency'. Any department, institution, board, commission, committee, division, bureau, officer, official or any other entity for which the State has oversight responsibility, including but not limited to, any university, mental or specialty hospital, community or technical college, technical institute, clerk of court.

"§ 147-64.5. *Cooperation with Joint Legislative Commission on Governmental Operations and other governmental bodies.*—(a) Joint Legislative Commission on Governmental Operations. The Auditor shall furnish copies of any and all audits requested by the Joint Legislative Commission on Governmental Operations. Accordingly, the Auditor shall, upon request by the chairmen, appear before the Commission to present findings and answer questions concerning the results of these audits. The Commission is hereby authorized to use these audit findings in its inquiries concerning the operations of State agencies and is empowered to require agency heads to advise the Commission of actions taken or to be taken on any recommendations made in the report or explain the reasons for not taking action.

(b) Requests for Auditor assistance. Committees of the General Assembly, the Governor, and other State officials may make written requests that the Auditor undertake, to the extent deemed practicable and within the resources provided, a specific audit or investigation; provide technical assistance and advice; and provide recommendations on management systems, finance, accounting, auditing, and other areas of management interest.

(c) Cooperation with other governmental bodies. The Auditor shall cooperate, act, and function with other audit or evaluation organizations in the State, with appropriate councils or committees of other states, with governing bodies of the political subdivisions of the State, and with federal agencies in an effort to maximize the extent of intergovernmental audit coordination and thereby avoid unnecessary duplication and expense of audit effort. Nothing in this Article is intended nor shall it be construed as giving the Auditor control over the internal auditors of any agency.

"§ 147-64.6. *Duties and responsibilities.*—(a) It is the policy of the General Assembly to provide for the auditing of State agencies by the impartial, independent State Auditor.

(b) The duties of the Auditor are independently to examine into and make findings of fact on whether State agencies:

(1) Have established adequate operating and administrative procedures and practices; systems of accounting, reporting and auditing; and other necessary elements of legislative or management control.

(2) Are providing financial and other reports which disclose fairly, consistently, fully, and promptly all information needed to show the nature and scope of programs and activities and have established bases for evaluating the results of such programs and operations.

(3) Are promptly collecting, depositing, and properly accounting for all revenues and receipts arising from their activities.

(4) Are conducting programs and activities and expending funds made available in a faithful, efficient, and economical manner in compliance with and in furtherance of applicable laws and regulations of the State, and, if applicable, federal law and regulation.

(5) Are determining that the authorized activities or programs effectively serve the intent and purpose of the General Assembly and, if applicable, federal law and regulation.

(c) The Auditor shall be responsible for the following acts and activities:

(1) Audits made or caused to be made by the Auditor shall be conducted in accordance with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants, the United States General Accounting Office, or other professionally recognized accounting standards-setting bodies.

(2) Financial and compliance audits may be made at the discretion of the Auditor without advance notice to the organization being audited. Audits of economy and efficiency and program results shall be discussed in advance with the prospective auditee unless an unannounced visit is essential to the audit.

(3) The Auditor, on his own initiative and as often as he deems necessary, or as requested by the Governor or the General Assembly, shall, to the extent deemed practicable and consistent with his overall responsibility as contained in this act, make or cause to be made audits of all or any part of the activities of the State agencies.

(4) The Auditor, at his own discretion, may, in selecting audit areas and in evaluating current audit activity, consider and utilize, in whole or in part, the relevant audit coverage and applicable reports of the audit staffs of the various State agencies, independent contractors, and federal agencies. He shall coordinate, to the extent deemed practicable, the auditing conducted within the State to meet the needs of all governmental bodies.

(5) The Auditor is authorized to contract with federal audit agencies, or any governmental agency, on a cost reimbursable basis, for the Auditor to perform audits of federal grants and programs administered by the State departments and institutions in accordance with agreements negotiated between the Auditor and the contracting federal audit agencies or any governmental agency. In instances where the grantee State agency shall subgrant these federal funds to local governments, regional councils of government and other local groups or private or semiprivate institutions or agencies, the Auditor shall have the authority to examine the books and records of these subgrantees to the extent necessary to determine eligibility and proper use in accordance with State and federal laws and regulations.

The Auditor shall charge and collect from the contracting federal audit agencies, or any governmental agencies, the actual cost of all the audits of the grants and programs contracted by him to do. Amounts collected under these arrangements shall be deposited in the State Treasury and be budgeted in the Department of State Auditor and shall be available to hire sufficient personnel to perform these contracted audits and to pay for related travel, supplies and other necessary expenses.

(6) The Auditor is authorized and directed in his reports of audits or reports of special investigations to make any comments, suggestions, or recommendations he deems appropriate concerning any aspect of such agency's activities and operations.

(7) The Auditor shall charge and collect from each examining and licensing board the actual cost of each audit of such board. Costs collected under this subdivision shall be based on the actual expense incurred by the Auditor's office in making such audit and the affected agency shall be entitled to an itemized statement of such costs. Amounts collected under this subdivision shall be deposited into the General Fund as nontax revenue.

(8) The Auditor shall examine as often as may be deemed necessary the accounts kept by the Treasurer, and if he discovers any irregularity or deficiency therein, unless the same be rectifed or explained to his satisfaction, report the same forthwith in writing to the General Assembly, with copy of such report to the Governor and Attorney General. In addition to regular audits, the Auditor shall check the treasury records at the time a Treasurer assumes office (not to succeed himself), and therein charge him with the balance in the treasury, and shall check the Treasurer's records at the time he leaves office to determine that the accounts are in order.

(9) The Auditor may examine the accounts and records of any bank or financial institution relating to transactions with the State Treasurer, or with any State agency, or he may require banks doing business with the State to furnish him information relating to transactions with the State or State agencies.

(10) The Auditor may, as often as he deems advisable, conduct a detailed review of the bookkeeping and accounting systems in use in the various State agencies which are supported partially or entirely from State funds. Such examinations will be for the purpose of evaluating the adequacy of systems in use by these agencies and institutions. In instances where the Auditor determines that existing systems are outmoded, inefficient, or otherwise inadequate, he shall prescribe and supervise the installation of such changes, as in his judgment, appear necessary to secure and maintain internal control and facilitate the recording of accounting data for the purpose of preparing reliable and meaningful financial statements and reports. In all cases in which major changes in the accounting systems are made, he will be responsible for seeing that the new system is designed to accumulate information required for the preparation of budget reports and other financial reports. In instances in which State agencies wish to develop, upgrade, revise, or otherwise alter their accounting systems, said agencies shall request the Auditor to make a survey of their systems to ascertain if the change is desirable. To the extent that he deems necessary and within available resources, the Auditor shall review the proposed changes in the system which may include an examination of the system's justification, design, documentation, controls, applications and specifications, or any other related documentation he may determine necessary in formulating his opinion on the requested change. Equipment or related software to be used, in whole or in part, to operate the accounting system may be acquired only upon the prior written approval of the Auditor.

(11) The Auditor shall transmit to the General Assembly annually a complete statement of the funds of the State, of its revenues and of the

public expenditures during the preceding fiscal year, with copies of such statements furnished to the Governor and to such other persons as may be deemed advisable.

This Comprehensive Annual Financial Report shall be prepared in accordance with generally accepted principles of governmental accounting. Accordingly, each and every State agency is hereby required to furnish by September 1 of each year financial statements to the Auditor for all its funds prepared in accordance with generally accepted principles of governmental accounting and in the form required by the Auditor.

Furthermore, the Auditor shall, through appropriate tests, satisfy himself concerning the propriety of the data presented in said comprehensive report and express the appropriate auditor's opinion in accordance with generally accepted auditing standards.

(12) The Auditor shall provide in a written statement to the Governor and Attorney General, and other appropriate officials, such facts as are in his possession which pertain to the apparent violation of penal statutes or apparent instances of malfeasance, misfeasance, or nonfeasance by an officer or employee.

(13) At the conclusion of an audit, the Auditor or his designated representative shall discuss the audit with the official whose office is subject to audit and submit necessary underlying facts developed for all findings and recommendations which may be included in the audit report. On audits of economy and efficiency and program results, the auditee's written response shall be included in the final report if received within 30 days from receipt of the draft report.

(14) The Auditor shall provide copies of each audit report to the General Assembly, the Governor, the Chief Executive Officer of each agency audited, and other persons as the Auditor deems appropriate. He shall also file a copy of the audit report in the Auditor's office, which will be a permanent public record; provided, nothing in this subsection shall be construed as authorizing or permitting the publication of information whose disclosure is otherwise prohibited by law.

(15) It is not the intent of the audit function, nor shall it be so construed, to infringe upon or deprive the General Assembly and the executive or judicial branches of State government of any rights, powers, or duties vested in or imposed upon them by statute or the Constitution.

(d) Reports and work papers. The Auditor shall maintain for 10 years a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under his authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of his office shall be retained according to an agreement between the Auditor and State Archives. To promote intergovernmental cooperation and avoid unnecessary duplication of audit effort, pertinent work papers and other supportive material related to issued audit reports may be, at the discretion of the Auditor and unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal government who desire access to and inspection of such records in connection with some matter officially before them.

Except as provided above, or upon subpoena issued by a duly authorized court or court official, audit work papers shall be kept confidential.

"§ 147-64.7. *Authority.*—(a) Access to persons and records.

(1) The Auditor and his authorized representatives shall have ready access to persons and may examine and copy all books, records, reports, vouchers, correspondence, files, investments, and any other documentation of any State agency. The review of State tax returns shall be limited to matters of official business and the Auditor's report shall not violate the confidentiality provisions of tax laws.

(2) The Auditor and his duly authorized representatives shall have such access to persons, records, papers, reports, vouchers, correspondence, books, and any other documentation which is in the possession of any individual, private corporation, institution, association, board, or other organization which pertain to:

a. Amounts received pursuant to a grant or contract from the federal government, the State, or its political subdivisions.

b. Amounts received, disbursed, or otherwise handled on behalf of the federal government or the State. In order to determine that payments to providers of social and medical services are legal and proper, the providers of such services will give the Auditor, or his authorized representatives, access to the records of recipients who receive such services.

(3) The Auditor shall, for the purpose of examination and audit authorized by this act, have the authority, and will be provided ready access, to examine and inspect all property, equipment, and facilities in the possession of any State agency or any individual, private corporation, institution, association, board, or other organization which were furnished or otherwise provided through grant, contract, or any other type of funding by the State of North Carolina, or the federal government.

(4) All contracts or grants entered into by State agencies or political subdivisions shall include, as a necessary part, a clause providing access as intended by this section.

(5) The Auditor and his authorized agents are authorized to examine all books and accounts of any individual, firm, or corporation only insofar as they relate to transactions with any agency of the State.

(b) Experts; Contracted Audits.

(1) The Auditor may obtain the services of independent public accountants, qualified management consultants, or other professional persons and experts as he deems necessary or desirable to carry out the duties and functions assigned under the act.

(2) No State agency may enter into any contract for auditing services which may impact on the State's comprehensive annual financial report without consultation with, and the prior written approval of, the Auditor, except in instances where audits are called for by the Governor under G.S. 143-3 and he shall so notify the Auditor. The Auditor shall prescribe policy and establish guidelines containing appropriate criteria for selection and use of independent public accountants, qualified management consultants, or other professional persons by State agencies and governing bodies to perform all or part of the audit function.

(c) Authority to administer oaths, subpoena witnesses and records, and take depositions.

(1) For the purposes of this Article the Auditor or his authorized representative shall have the power to subpoena witnesses, to take testimony under oath, to cause the deposition of witnesses (residing within or without the State) to be taken in a manner prescribed by law, and to assemble records and documents, by subpoena or otherwise. The subpoena power granted by this section may be exercised only at the specific written direction of the Auditor or his chief duputy.

(2) In case any person shall refuse to obey a subpoena, the Auditor shall invoke the aid of any North Carolina court within the jurisdiction of which the investigation is carried on or where such person may be, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. Such court may issue an order requiring such person to appear before the Auditor or officers designated by the Auditor, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"§ 147-64.8. *Independence.*—The Auditor shall maintain independence in the performance of his authorized duties. Except as otherwise provided by law, neither the General Assembly nor the Governor nor any department or agency of the executive or judicial branches of State government shall have the authority to limit the scope, direction, or report of an audit undertaken by the Auditor. No State regulatory agency shall by any fiscal or administrative requirements attempt to limit the scope, direction, or report of an audit undertaken by the Auditor.

"§ 147-64.9. *Rules and regulations.*—The Auditor shall make and enforce such reasonable rules and regulations as are necessary for the operation of his office. The Auditor shall install an adequate accounting system for his office and shall keep or cause to be kept a complete, accurate, and adequate record of all fiscal transactions of his office.

"§ 147-64.10. *Powers of appointment.*—The Auditor may, subject to the provisions of the State Personnel Act, appoint all employees necessary to perform the duties and functions assigned to him by the provisions of this Article.

Except where otherwise provided in this Article, all powers and duties vested in the Auditor may be delegated by him to deputies, assistants, employees, or other auditors, consultants, professionals, and experts, whose services are obtained in accordance with the provisions of this act; but the Auditor shall retain responsibility for the powers and duties so delegated.

"§ 147-64.11. *Review of office.*—The Auditor may, on his own initiative and as often as he deems necessary, or as requested by the General Assembly, cause to be made a quality review audit of the operations of his office. Such a 'peer review' shall be conducted in accordance with standards prescribed by the accounting profession. Upon the recommendation of the Advisory Budget Commission, the Joint Legislative Commission on Governmental Operations may contract with an independent public accountant, qualified management consultant, or other professional person to conduct a financial and compliance, economy and efficiency, and program result audit of the State Auditor.

"§ 147-64.12. *Conflict of Interest.*—(a) To preserve the independence and objectivity of the audit function, the Auditor and his employees may not, unless otherwise expressly authorized by statute, serve in any capacity on an administrative board, commission, or agency of government of a political subdivision of the State or any other organization that, under the provisions of this act, they have the responsibility or authority to audit. Nor shall they have a material, direct or indirect financial, or other economic interest in the transactions of any State agency.

(b) The Auditor shall not conduct an audit on a program or activity for which he had management responsibility or in which he has been employed during the preceding two years. The General Assembly shall otherwise provide for the necessary audit of programs and activities within the meaning of this subsection.

"§ 147-64.13. *Construction.*—This Article shall be construed liberally in the aid of its declared purpose. It is the intent of this Article that the establishment of the Office of the Auditor and the duties, powers, qualifications, and purposes herein specified shall take precedence over any conflicting part or application of any other law.

"§ 147-64.14. *Severability.*—If any provision of this Article or the application thereof to any person, State agency, political subdivision, or circumstance is held invalid, such invalidation shall not affect other provisions or applications of this Article which can be given effect without the invalid provision of application, and to this end the provisions of this Article are declared severable."

Sec. 3. G.S. 7A-11 is amended by rewriting the seventh sentence to read as follows: "The operations of the Clerk of the Supreme Court shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 4. G.S. 7A-20(b) is amended by rewriting the last sentence to read as follows: "The operations of the Court of Appeals shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 5. G.S. 7A-108 is amended by rewriting the last paragraph to read as follows: "The operations of the Administrative Office of the Courts and the Clerks of Superior Court shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 6. G.S. 20-183.20 is rewritten to read:

"§ 20-183.20. *Inspection of financial records of Commission.*—Pursuant to Article VI(e) of the Compact, the operations of the Vehicle Equipment Safety Commission shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 7. G.S. 58-191 is amended by deleting the last sentence of the first paragraph.

Sec. 8. G.S. 86A-7(d) is repealed.

Sec. 9. G.S. 88-15 is amended: (1) in the catch line by deleting "; audit", (2) in the last sentence of the second paragraph by deleting the words ", said warrants to be drawn by the secretary of the Board and approved by the State Auditor", and (3) in the fourth paragraph by deleting the first sentence.

Sec. 10. G.S. 90-281 is amended by deleting the last sentence.

Sec. 11. G.S. 93B-4 is rewritten to read:

"§ 93B-4. *Audit of occupational licensing boards; payment of costs.*—The books, records, and operations of each occupational licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

The cost of all audits shall be paid from funds of the occupational licensing board audited."

Sec. 12. G.S. 105-267.1 is amended by deleting the words "the State Auditor shall issue his warrant for the amount so illegally collected, to the person entitled thereto,".

Sec. 13. G.S. 106-335 is amended by deleting the words "on warrants approved by the auditor,".

Sec. 14. G.S. 113-315.35 is rewritten to read:

"§ 113-315.35. *Audit.*—The operations of the North Carolina Seafood Industrial Park Authority shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 15. G.S. 114-2(7) is amended by deleting the words "by the Auditor".

Sec. 16. G.S. 115C-29(b)(7) is repealed.

Sec. 17. G.S. 115C-447 is amended in the last paragraph by deleting the words ", in consultation with the State Board of Education,".

Sec. 18. G.S. 115D-58.5 is amended by rewriting subsection (c) to read: "(c) The operations of each institution shall be subject to oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.", and is further amended by repealing subsection (d).

Sec. 19. G.S. 116-36.1(d), 116-36.2(a) and 116-36.3(a) are amended by deleting the reference "G.S. 147-58" in each section and substituting the reference "Article 5A of Chapter 147 of the General Statutes".

Sec. 20. G.S. 116-209.14 is amended by rewriting the last sentence to read as follows: "The operations of the authority shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 21. G.S. 123A-23 is amended by rewriting the last sentence as follows: "The operations of the authority shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 22. G.S. 126-64 is amended in the second sentence by deleting the words "the State Auditor".

Sec. 23. G.S. 130-177 is amended by deleting the last sentence of the eighth paragraph.

Sec. 24. G.S. 135-39.1 is rewritten to read:

"§ 135-39.1. *Auditing of the Plan.*—The Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan and the Plan Administrator shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 25. G.S. 136-10 is rewritten to read:

"§ 136-10. *Audit.*—The operations of the Department of Transportation shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 26. G.S. 137-31.5 is rewritten to read:

"§ 137-31.5. *Audit.*—The operations of the Corporation shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 27. G.S. 138-6(a)(1) is amended by deleting the last sentence.

Sec. 28. G.S. 140-8 is rewritten to read:

"§ 140-8. *Audit.*—The operations of the North Carolina Symphony Society, Inc., shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 29. G.S. 140-13 is rewritten to read:

"§ 140-13. *Audit.*—The operations of the North Carolina Art Society, Inc., shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 30. Articles 4, 5, 5A, 6 and 7 of Chapter 142 of the General Statutes are repealed.

Sec. 31. G.S. 143-20 is amended in the catch line by deleting the words "and audits" and is further amended by deleting the last sentence of the paragraph.

Sec. 32. Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-20.1. *Annual Financial Statements.*—Beginning with fiscal years ending in 1984 and each and every year thereafter, all State agencies shall prepare annual financial statements on all funds administered by them no later than 60 days subsequent to the close of the fiscal year then ended in accordance with generally accepted accounting principles as described in authoritative pronouncements and interpreted and/or prescribed by the State Auditor, and in such form as he may require. The State Auditor shall publish guidelines specifying the procedures to implement the necessary records, procedures, and accounting systems to reflect these statements on the proper basis of accounting.

Accordingly, the State Auditor shall combine the financial statements for the various agencies into a Comprehensive Annual Financial Report for the State of North Carolina in accordance with generally accepted accounting principles. These statements, with the Auditor's opinion, shall be published as the official financial statements of the State and shall be distributed to the Governor, members of the General Assembly, heads of departments, agencies and institutions of the State and other interested parties. The State Auditor shall notify the Director of the Budget of any and all State agencies which have not complied fully with the requirements of this provision within the specified time, and the Director of the Budget shall employ whatever means necessary, including the withholding of allotments, to ensure immediate corrective actions."

Sec. 33. G.S. 143-106 is repealed.

Sec. 34. G.S. 143-127 is amended by deleting the words "by the Auditor".

Sec. 35. G.S. 143-154 is amended in the first sentence by deleting the words "State Auditor's".

Sec. 36. G.S. 143-155 is repealed.

Sec. 37. G.S. 143-166(b)(2) is repealed.

Sec. 38. G.S. 143-166(f) is amended by rewriting the second sentence to read: "The operations of the Board shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 39. G.S. 143-203 is repealed.

Sec. 40. G.S. 143B-74.1 is amended by deleting from the second sentence the following: "; such records and books shall be available for audit at any time by the State Auditor of North Carolina, and shall be annually audited by him in the same manner as audits are made of other State agencies and departments" and by substituting the words:

"The operations of the Commission shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 41. G.S. 143B-410 is amended in the first sentence by inserting a period after the word "Administration" and deleting the remaining language.

Sec. 42. G.S. 143B-426.18 is rewritten to read:

"§ 143B-426.18. *Audit.*—The operations of the North Carolina Agency for Public Telecommunications shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 43. G.S. 143B-464 is rewritten to read:

"§ 143B-464. *Audit.*—The operations of the State Ports Authority shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 44. G.S. 147-6 is amended as follows: (1) in the catch line by deleting the words "of State Auditor", (2) in the first sentence by deleting the words "by the State Auditor", and (3) by rewriting the second sentence to read: "The officer of State or head of any department thereof shall file an itemized statement of the salaries, bills for purchase of equipment and other expenses of his department, and warrants shall be drawn on the State Treasurer for the payment of all salaries, purchases of equipment, and expenses as authorized by law, to be paid by the said officer of State or head of any department thereof, as evidenced by statements so approved and filed."

Sec. 45. G.S. 147-11 is amended in the third sentence by deleting the words "the State Treasurer on a warrant issued by the Auditor." and substituting the words "a warrant drawn on the State Treasurer."

Sec. 46. G.S. 147-12(1) is amended by deleting the words ", and for the purpose of paying the expenses of such visitation the Auditor is hereby directed to draw an order on the Treasurer in favor of the Governor to pay his expenses for each visitation".

Sec. 47. G.S. 147-16(2) is amended by deleting the words ", which shall be paid upon the warrant of the Auditor".

Sec. 48. G.S. 147-31 is repealed.

Sec. 49. G.S. 147-62 is recodified as G.S. 143-3.3.

Sec. 50. G.S. 147-63 is amended by deleting the words "the auditor to draw his warrant therefor" and substituting the words "a warrant be drawn therefor", and is recodified as G.S. 143-3.4(a).

Sec. 51. G.S. 147-64 is amended in the second sentence by deleting the words "The Auditor shall not draw his warrant" and substituting the words "A warrant shall not be drawn", and is recodified as G.S. 143-3.4(b).

Sec. 52. G.S. 147-68 is amended in subsection (a) by deleting the words "by the State Disbursing Officer or the State Auditor or the State Treasurer in the lawful exercise of their duties and responsibilities" and is further amended

in subsection (b) by deleting the words "of the State Disbursing Officer or the State Auditor or the State Treasurer, and".

Sec. 53. G.S. 147-76 is amended by deleting the words "with the Auditor,".

Sec. 54. G.S. 147-84 is rewritten to read:

"§ 147-84. *Refund of excess payments.*—Whenever taxes or other receipts of any kind are or have been by clerical error, misinterpretation of the law, or otherwise, collected and paid into the State Treasury in excess of the amount found legally due the State, said excess amount shall be refunded to the person entitled thereto."

Sec. 55. G.S. 147-85 is amended by deleting the last sentence.

Sec. 56. G.S. 163-107(b) is amended by rewriting the second sentence to read: "If the fee was paid to the State Board of Elections, the chairman of that board shall cause a warrant to be drawn on the Treasurer of the State for the refund payment."

Sec. 57. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

H. B. 1045 CHAPTER 914

AN ACT TO ESTABLISH THE SMALL BUSINESS FINANCE STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Small Business Finance Study Commission is hereby created. It shall consist of 10 members, five Representatives to be appointed by the Speaker of the House of Representatives and five Senators by the President of the Senate. A vacancy in membership shall be filled by the appointing authority who made the initial appointment.

Sec. 2. It shall be the duty of the Commission to study means to improve and stimulate the small business segment of the State's economy, by reviewing the need to establish a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small businesses of this State may need for their growth, expansion, and modernization; any needed assistance in overcoming economic dislocation problems created by an energy shortage; the need for the State to administer a small business investment company assistance program; and any other matters the Commission identifies as being of importance to small businesses of the State. The Commission may report to the General Assembly on or before the first day of the 1983 Session, Second Session 1984, and the Commission shall report to the General Assembly on or before the first day of the 1985 Session. The report shall be in writing and shall set forth the Commission's findings, conclusions, and recommendations including any proposed legislation.

Sec. 3. The President of the Senate and the Speaker of the House of Representatives shall appoint the cochairmen of the Commission from their respective appointees. The Commission shall meet at such times and places as the cochairmen shall designate. The facilities of the State Legislative Building and the Legislative Office Building shall be available to the Commission, subject to the approval of the Legislative Services Commission. The members of

the Commission shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1.

Sec. 4. The Commission may solicit, employ, or contract for technical assistance and clerical assistance, and may purchase or contract for the materials and services it needs. Subject to the approval of the Legislative Services Commission, the staff resources of the Legislative Services Commission shall be available to this Commission without cost except for travel, subsistence, supplies, and materials.

Sec. 5. There is hereby appropriated from the General Fund to the General Assembly the sum of five thousand dollars ($5,000) for the fiscal year 1983-84 to carry out the purposes of the Small Business Finance Study Commission.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

H. B. 1169

CHAPTER 915

AN ACT TO CREATE A STUDY COMMISSION TO EXAMINE ALTERNATIVES FOR INCREASING PUBLIC AWARENESS OF THE IMPORTANCE OF AGRICULTURE, FORESTRY, AND SEAFOOD IN NORTH CAROLINA.

Whereas, the Governor and the Agricultural Leadership in North Carolina have historically supported and diligently worked together for agriculture in this State; and

Whereas, agriculture in North Carolina has experienced severe financial setbacks and instability in recent years due to drought, inflation and other unavoidable circumstances; and

Whereas, a strong agricultural economy is essential to and is the life supporting fiber of both the rural and urban populations of North Carolina; and since agriculture is the number one employer and since agriculture, forestry and seafood must maintain the ability to produce future needs; and

Whereas, North Carolina must never forget its agricultural heritage, public awareness of the importance of agriculture, forestry and seafood should be increased; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby created an Agriculture, Forestry, and Seafood Awareness Study Commission (hereinafter "the Commission").

Sec. 2. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture, forestry, and seafood sector of the State's economy. Members shall be appointed by October 1, 1983, as follows:

(1) Three by the Governor;

(2) Three by the Speaker of the House of Representatives of the State of North Carolina;

(3) Three by the Lieutenant Governor of the State of North Carolina.

Sec. 3. The following individuals shall also serve as members of the Commission beginning on October 1, 1983:

(1) The Chairman of the House Agriculture Committee;

(2) The Chairman of the Senate Agriculture Committee;

(3) The Commissioner of Agriculture or his designee;

(4) A member of the Board of Agriculture designated by the Chairman;

(5) The President of the North Carolina Farm Bureau Federation, Inc., or his designee;

(6) The Master of the North Carolina Grange or his designee;

(7) The President of the North Carolina Association of Soil and Water Conservation Districts;

(8) The President of the North Carolina Fisheries Association;

(9) The President of the North Carolina Forestry Association;

(10) The President of the North Carolina Agribusiness Council.

Sec. 4. The cochairmen of the Commission shall be the Chairman of the Senate Agriculture Committee and the Chairman of the House Agriculture Committee.

Sec. 5. The members of the Commission who are members of the General Assembly shall receive subsistence and travel allowances at the rate set forth in G.S. 120-3.1. Members who are officials or employees of the State of North Carolina shall receive subsistence and travel allowances at the rate set forth in G.S. 138-6. All other members shall be paid the per diem allowances at the rates set forth in G.S. 138-5.

Sec. 6. The Commission may hold its meetings in the State Legislative Building with the approval of the Legislative Services Commission. The Legislative Services Commission shall provide necessary professional and clerical assistance to the Commission.

Sec. 7. The Commission is hereby directed to bring to the attention of the General Assembly the influence of agriculture, forestry, and seafood on the economy of the State; to develop alternatives for increasing the public awareness of agriculture, forestry, and seafood; to study the present status of agriculture, forestry, and seafood; to identify problems limiting future growth and development of the industry; to develop an awareness of the importance of science and technological development to the future of agriculture, forestry, and seafood industries; to formulate plans for new State initiatives and support for agriculture, forestry, and seafood and for the expansion of opportunities in these sectors.

Sec. 8. In conducting its study the Commission may hold public hearings and/or meetings across the State.

Sec. 9. The Commission shall complete its work by January 1, 1985, and shall make a written report to the 1985 General Assembly no later than March 1, 1985.

Sec. 10. There is appropriated from the General Fund to the General Assembly for fiscal year 1983-84 the sum of ten thousand dollars ($10,000) for the purpose of carrying out the provisions of this act. The Department of Agriculture may provide funds available to it to the Commission for the purpose of carrying out the provisions of this act.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

S. B. 165

CHAPTER 916

AN ACT ENTITLED THE CHILD PROTECTION ACT OF 1983.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-318.4 is amended by rewriting the last line of subsection (a) to read: "is guilty of child abuse and shall be punished as a Class I felon." and by adding new subsections (a1) and (a2) to read:

"(a1) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of the child, who commits, permits, or encourages any act of prostitution with or by the juvenile is guilty of child abuse and shall be punished as a Class I felon.

(a2) Any parent or legal guardian of a child less than 16 years of age who commits or allows the commission of any sexual act upon a juvenile is guilty of a Class I felony."

Sec. 2. G.S. 14-190.6 is amended by inserting the following language between "under this Article" and "and": "other than G.S. 14-190.12".

Sec. 3. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-190.12. *Sexual performance by child.*—(a) The use of a child in a sexual performance or the promotion of such a performance by a child shall be punished as a Class I felony. A person is guilty of the use of a child in a sexual performance if, knowing the character and content of the performance, he employs, authorizes, or induces a child whom he knows or reasonably should know is less than 16 years of age to engage in such performance. The parent, legal guardian, or custodian of a child less than 16 years of age is guilty of the use of a child in a sexual performance if he consents to the child's participation in such performance. A person is guilty of the promotion of a sexual performance by a child if, knowing the character and content of the performance, he produces, directs, or promotes such performance by a child who he knows or reasonably should know is less than 16 years of age.

For purposes of this section, promotion includes manufacture, delivery, or dissemination. A sexual performance is any play, motion picture, photograph, dance, or other visual presentation exhibited before an audience which includes sexual intercourse, buggery, bestiality, masturbation, sadomasochism, or lewd and lascivious exhibition of the genitals by a child less than 16 years of age.

(b) In addition to any other penalty imposed by law, a person found guilty of violating subsection (a) may be remanded by the court to a State authorized psychiatric facility to receive treatment and counseling for at least 90 days, to be served as a concurrent portion of any imposed sentence."

Sec. 4. This act shall become effective October 1, 1983, and shall apply to offenses committed on or after that date.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

S. B. 682 **CHAPTER 917**

AN ACT TO PROHIBIT POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE ON PUBLIC SCHOOL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18-301(f) is amended by adding the following subsection:

"(7) Any person to possess on his person or consume malt beverages or unfortified wine upon any property owned or leased by a local board of education and used by the local board of education for school purposes, unless specifically authorized by resolution of the local board of education."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

H. B. 457 **CHAPTER 918**

AN ACT TO PERMIT A SUCCESSFUL APPELLANT OF AN AGENCY DECISION TO RECOVER ATTORNEY'S FEES FROM THE AGENCY IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 6 of the General Statutes is amended by adding new sections to read:

"§ 6-19.1. *Attorney's fees to parties appealing or defending against agency decision.*—In any civil action, other than an adjudication for the purpose of establishing or fixing a rate, or a disciplinary action by a licensing board, brought by the State or brought by a party who is contesting State action pursuant to G.S. 150A-43 or any other appropriate provisions of law, unless the prevailing party is the State, the court may, in its discretion, allow the prevailing party to recover reasonable attorney's fees to be taxed as court costs against the appropriate agency if:

(1) the court finds that the agency acted without substantial justification in pressing its claim against the party; and

(2) the court finds that there are no special circumstances that would make the award of attorney's fees unjust.

The party shall petition for the attorney's fees within 30 days following final disposition of the case. The petition shall be supported by an affidavit setting forth the basis for the request.

Nothing in this section grants permission to bring an action against an agency otherwise immune from suit or gives a right to bring an action to a party who otherwise lacks standing to bring the action.

Any attorney's fees assessed against an agency under this act shall be charged against the operating expenses of the agency and shall not be reimbursed from any other source.

"§ 6-19.2. *Attorney's fees to parties who compel disclosure of public records.*—In any civil action in which a party successfully compels the disclosure of public records pursuant to G.S. 132-9 or other appropriate provisions of law, the court may, in its discretion, allow the prevailing party to recover reasonable attorney's fees to be taxed as court costs against the appropriate agency if:

(1) the court finds that the agency acted without substantial justification in denying access to the public records; and

(2) the court finds that there are no special circumstances that would make the award of attorney's fees unjust.

The party shall petition for the attorney's fees within 30 days following final disposition of the case. The petition shall be supported by an affidavit setting forth the basis for the request.

Nothing in this section grants permission to bring an action against an agency otherwise immune from suit or gives a right to bring an action to a party who otherwise lacks standing to bring the action.

Any attorney's fees assessed against an agency under this act shall be charged against the operating expenses of the agency and shall not be reimbursed from any other source."

Sec. 2. This act shall become effective October 1, 1983, and applies to actions commenced on or after that date.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

H. B. 552 CHAPTER 919

AN ACT TO PROVIDE THAT WHEN AN AGENCY IMPOSES A MONETARY CIVIL OR MONETARY ADMINISTRATIVE PENALTY AND JUDICIAL REVIEW IS AVAILABLE UNDER THE ADMINISTRATIVE PROCEDURE ACT, THE PETITIONER MAY ELECT A DE NOVO REVIEW.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 150A of the General Statutes is amended by adding a new section to read:

"§ 150A-46.1. *Review de novo.*—Notwithstanding any other provision of this Article, if the final agency decision imposes a monetary civil penalty or a monetary administrative penalty, and if the petition filed under G.S. 150A-46 so requests, the court shall hear that issue *de novo*."

Sec. 2. The second sentence of G.S. 150A-50 is amended by deleting "The court", and inserting in lieu thereof "Except as provided in G.S. 150A-46.1, the court".

Sec. 3. G.S. 150A-47 is amended by adding the following material at the end:

"If the petitioner has requested review *de novo* under G.S. 150A-46.1, the judge may dispense with any of the requirements of the first sentence of this section if they are not necessary for the review *de novo*."

Sec. 4. G.S. 150A-51 is amended by adding the following at the end:

"If the review was *de novo* under G.S. 150A-46.1, the court may affirm, remand, reverse, or modify the case or decision based on evidence presented to the court."

Sec. 5. This act is effective with respect to final agency decisions made on or after January 1, 1984.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

H. B. 779 **CHAPTER 920**

AN ACT TO MODIFY THE CERTIFICATE OF NEED LAW FOR LIFE CARE CENTERS.

The General Assembly of North Carolina enacts:

Section 1. Section 31(f) of Chapter 1127, Session Laws of 1981 and any similar provision which may be enacted by the General Assembly in the Session Laws of 1983 do not apply to construction of skilled nursing facilities or intermediate care facilities as a part of a "life care" or "care for life" institution as defined in G.S. 131A-3(11).

Sec. 2. G.S. 131-181 is amended by adding a new subsection to read:

"(c) In reviewing applications for skilled nursing facilities or intermediate care facilities to be provided within a "life care" or "care for life" institution, the evaluation of the need shall not include the relationship of the proposed project to the need for such services specified in the State Medical Facilities Plan or State Health Plan provided that (1) the use of the proposed facilities is to be limited to resident members of the "life care" or "care for life" institution, (2) the facilities are not to be certified for participation in either the Medicare or Medicaid programs, (3) the ratio of skilled nursing facility beds and intermediate care facility beds to domiciliary care beds and other residential arrangements shall not exceed one to four, and (4) the facilities are to be developed after residential housing has been established or be developed as a part of a total housing construction program which shall document that the entire complex is one inseparable project. Facilities developed under this provision shall not be included in the statewide inventory for purposes of developing the State Medical Facilities Plan."

Sec. 3. This act applies only to facilities owned and operated by a nonprofit organization (including a corporation, association, or religious organization) with a membership of 5,000 or more, or by a corporation which is totally controlled by such an organization, and Section 1 of this act applies only if the use of the proposed facilities is limited to members of the nonprofit organization. Before such a facility obtaining a certificate of need under this act may be operated other than as part of a "life care" or "care for life" institution, a certificate of need must be obtained without regard to Sections 1 or 2 of this act. No certificate of need may be granted under this act after June 30, 1984.

Sec. 4. This act is effective upon ratification except that G.S. 131-181(c)(1) as it appears in Section 2 of this act shall become effective January 1, 1986.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

H. B. 1379

CHAPTER 921

AN ACT CREATING THE CRIMINAL CODE REVISION STUDY COMMITTEE.

Whereas, the Criminal Code Commission has worked on a revision of the substantive criminal laws since the mid-1970's; and

Whereas, that Commission has completed its work and has proposed a new criminal code; Now, therefore,

The General Assembly of North Carolina enacts:

Section. 1. The Criminal Code Revision Study Committee is established. The Committee shall consist of four senators, one who shall not be a member of the legal profession, one law school professor and one district attorney appointed by the President of the Senate and four representatives, one who shall not be a member of the legal profession, one law school professor and one criminal defense attorney appointed by the Speaker of the House of Representatives. Appointments shall be made by September 1, 1983. Original members shall serve until the Committee makes its final report. Vacancies on the Committee shall be filled in the same manner as the original appointments were made.

Sec. 2. The President shall designate one senator as a cochairman and the Speaker shall designate one representative as a cochairman. The initial meeting of the Committee shall be called by the cochairmen.

Sec. 3. The Committee shall study the substantive criminal law and make findings and recommendations thereon. The Committee may make an interim report to the 1984 Session of the General Assembly. On or before the first day of the 1985 Session of the General Assembly, the Committee shall submit a final report of its findings and recommendations to the General Assembly by filing the report with the President of the Senate and the Speaker of the House of Representatives. Upon filing its final report, the Committee shall terminate.

Sec. 4. Upon the approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist in the work of the Committee. Clerical staff shall be furnished to the Committee through the offices of House and Senate Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the Committee. The Committee may meet in the Legislative Building or the Legislative Office Building.

Sec. 5. Members of the Committee shall be paid subsistence and travel allowances as follows:

(1) Committee members who are also General Assembly members at the rate established in G.S. 120-3.1;

(2) Committee members who are also officials or employees of the State at the rate established in G.S. 138-6;

(3) All other Committee members at the rate established in G.S. 138-5.

Sec. 6. There is appropriated from the General Fund to the Legislative Services Commission for fiscal year 1983-84 the sum of ten thousand dollars ($10,000) to fund the Committee. Unexpended funds at the end of the 1983-84 fiscal year do not revert but shall remain in the budget to fund the Committee until it terminates. Upon its termination, any unexpended funds shall revert to the General Fund.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

H. B. 1475 CHAPTER 922

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-39(a) is rewritten to read:

"(a) There is hereby established the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan."

Sec. 2. G.S. 135-39.5(11) is rewritten to read:

"(11) Employing such clerical, professional staff, and other such assistance as may be necessary to assist the Board of Trustees in carrying out its duties and responsibilities under this Article."

Sec. 3. G.S. 135-39.4(c) is rewritten to read:

"Modifications from the request for proposal and the offer made in response may be made by the Board of Trustees, but such modification may not change any of the provisions of the Comprehensive Major Medical Plan provided in Part 3 of this Article except that the Board may make such administrative modifications as may be deemed necessary to facilitate the operation of the Comprehensive Major Medical Plan, or to correct typographical errors, or as provided in subsection (e). The Board shall consult with the Committee on Employee Hospital and Medical Benefits in regard to all such modifications as soon as reasonably practical."

Sec. 4. G.S. 135-40.1(3) is amended by adding the following sentence immediately after the first full sentence:

"Dependent child shall also include any child under age 19 who has reached his or her 18th birthday, provided the employee was legally responsible for such child's maintenance and support on his or her 18th birthday."

Sec. 5. G.S. 135-40.2(a)(3) is rewritten to read:

"Surviving spouses of deceased retirees and surviving spouses of deceased teachers and State employees, receiving a survivor's alternate benefit under G.S. 135-5(m)."

Sec. 6. G.S. 135-40.3(b) is rewritten to read:

"(b) Waiting Periods and Preexisting Conditions:

(1) New employees and dependents enrolling when first eligible are subject to no waiting period for preexisting conditions under the Plan.

(2) Employees not enrolling or not adding dependents when first eligible may enroll later on the first of any following month, but will be subject to a twelve-month waiting period for preexisting conditions."

Sec. 7. G.S. 135-40.5(d) is amended by adding the following at the end:

"Second surgical opinions for tonsillectomy and adenoidectomy procedures may be provided by Board-qualified pediatricians and family practitioners when qualified surgeons are not available to provide second surgical opinions. Should the first two opinions differ as to the necessity of surgery, the Plan will pay one hundred percent (100%) of reasonable and customary charges for the consultation of a third surgeon."

Sec. 8. G.S. 135-40.6(1) is amended by deleting the entire second paragraph and by adding a new subparagraph at the end to read:

"(s) The use of nebulizers when authorized as medically necessary by the attending physician."

Sec. 9. G.S. 135-40.6(1)n. is rewritten to read:

"n. Processing and administering of blood and blood plasma."

Sec. 10. G.S. 135-40.6(1)r. is amended by adding the following sentence at the end:

"Additional inpatient treatment, based on individual consideration, may be provided if prior approval is obtained from the Plan Administrator."

Sec. 11. G.S. 135-40.6(5)c. is amended by adding the following sentence at the end:

"Developmental and congenital orthognathic surgery procedures will be covered under the Plan, provided such surgery is medically necessary, is the only method of treatment which will correct the patient's deformity, is not performed for cosmetic reasons, and is approved in advance by the Plan Administrator on the basis of the surgeon's documentation that the correction of the deformity is medically necessary for the maintenance of good physical health."

Sec. 12. G.S. 135-40.6(6)a. is amended by adding the following language after the words "bone tissue" and prior to the semicolon in the ninth line:

"except as permitted pursuant to G.S. 135-40.6(5)c.".

Sec. 13. G.S. 135-40.6(8)c. is rewritten to read as follows:

"c. Home Health Agency Services: Services provided in a covered individual's home, when ordered by the attending physician. Services may include medical supplies, equipment, appliances, therapy services (when provided by a qualified speech therapist or licensed physiotherapist), and nursing services. Nursing services will be allowed for:

1. services of a registered nurse (RN); or
2. services of a licensed practical nurse (LPN) under the supervision of a RN; or
3. services of a home health aide under the supervision of a RN, limited to four hours a day.

Home health services shall be limited to 60 days per calendar year, except that additional home health services may be provided on an individual basis if prior approval is obtained from the Plan Administrator."

Sec. 14. G.S. 135-40.6(9)f. is amended by deleting the word "nebulizers," in the third line.

Sec. 15. G.S. 135-40.7(11) is amended by deleting the last sentence which reads:

"This exclusion also applies to any orthognathic procedures."

Sec. 16. G.S. 135-40.8 is amended by designating the first paragraph as subsection (a) and adding a new subsection to read:

"(b) Where a covered individual fails to obtain a second surgical opinion as required under the Plan, the covered individual shall be responsible for twenty percent (20%) of the eligible expenses, provided, however, that no covered individual shall be required to pay out of pocket in excess of one thousand dollars ($1,000)."

Sec. 17. G.S. 135-40.11(c)(3) is amended by changing the word "approval" to "approved".

Sec. 18. G.S. 135-40.13(d) is rewritten to read:

"Medicare Participants' Eligibility. In the case of employees eligible under the Plan who are also eligible for Medicare benefits, benefits under the Plan will be paid in coordination with Medicare benefits in a manner consistent with federal law."

Sec. 19. The last sentence of G.S. 135-40.11(c)(1) is amended by deleting the words "group coverage" and inserting in lieu thereof "employer-sponsored group coverage".

Sec. 20. The first sentence of G.S. 135-40.11(c)(1) is amended by deleting the words "three months" and inserting in lieu thereof the words "six months, provided that the first three months shall be on a fully contributory basis, and the premium for the second three months shall be fifty percent (50%) of the total amount calculated by adding the fully contributory premium to the applicable premium for conversion coverage under G.S. 135-40.12 but in any case the premium for the second three months shall not be less than the fully contributory premium".

Sec. 21. The third sentence of G.S. 135-40.11(c)(1) is rewritten to read: "The employee must pay in advance to the employer the total cost of the Plan for up to a three-month extension, and if the employee has elected such three-month extension and desires to elect a second extension of up to three months as provided in this subdivision, the employee shall pay in advance to the employer the total cost of such second extension in advance of the beginning of the second three-month period."

Sec. 21.1. G.S. 135-40.1(4) is amended by deleting "National Register of Health Services Provided in Psychology", and inserting in lieu thereof, "National Register of Health Services Providers in Psychology".

Sec. 21.2. G.S. 135-40.1(3)a. and b. are rewritten to read:

"a. If the dependent is a full-time student, between the ages of 19 and 26, who is pursuing a course of study that represents at least the normal workload of a full-time student at a school or college accredited by the state of jurisdiction.

b. The dependent is physically or mentally incapacitated to the extent that he or she is incapable of earning a living and (1) such handicap developed or began to develop before the dependent's 19th birthday, and (2) the dependent was covered by the Plan and/or the Predecessor Plan when such handicap began and there has been no lapse in coverage since that time."

Sec. 21.3. G.S. 135-40.6(9)(f) is further amended by deleting "Eyeglasses (corrective lenses)", and inserting in lieu thereof "Eyeglasses or other corrective lenses (except for cataract lenses certified as medically necessary for aphakia persons)".

Sec. 21.4. G.S. 135-40.7(13) is rewritten to read:

"(13) Charges for eyeglasses or other corrective lenses (except for cataract lenses certified as medically necessary for aphakia persons) and hearing aids or examinations for the prescription or fitting thereof."

Sec. 21.5. G.S. 135-40.6(8) is amended by adding a new subdivision to read:

"(l) Cataract lenses. Cataract lenses prescribed as medically necessary for aphakia persons, including charges for necessary examinations and fittings. Benefits will be limited to one set of cataract lenses every 24 months for persons 18 years of age or older, and one set of cataract lenses every 12 months for persons less than 18 years of age."

Sec. 21.6. G.S. 135-40.12(a) is rewritten to read:

"(a) Upon a cessation of group coverage under the Plan, an employee or dependent shall be entitled to a conversion to nongroup coverage without the necessity of a physical examination. Such conversion coverage shall include hospitalization, surgical, and medical benefits as contained in the major medical and alternative plan conversion provisions of Article 26C of Chapter 58 of the General Statutes. The Board of Trustees in its sole discretion shall approve the conversion coverage, which shall be administered by the Plan Administrator through an insurance contract arranged by the Plan Administrator, or administered as otherwise directed by the Board of Trustees. An eligible employee or dependent must apply for conversion coverage within 30 days after termination of group eligibility."

Sec. 21.7. The third paragraph of G.S. 135-40.1(2) is amended to read:

"The deductible applies separately to each covered individual in each calendar year, subject to an aggregate maximum of three hundred dollars ($300.00) per family (employee or retiree and his or her covered dependents) in any calendar year."

Sec. 21.8. The third sentence of the second paragraph of G.S. 135-40.4 is amended to read:

"The second part is a comprehensive plan and includes those benefits which are subject to both a one hundred dollar ($100.00) deductible for each covered individual to an aggregate maximum of three hundred dollars ($300.00) per family and coinsurance of 95%/5%."

Sec. 21.9. The first sentence of G.S. 135-40.6 is amended to read:

"The following benefits are subject to a deductible of one hundred dollars ($100.00) per covered individual to an aggregate maximum of three hundred dollars ($300.00) per family per calendar year and are payable on the basis of ninety-five percent (95%) by the Plan and five percent (5%) by the covered individual up to a maximum of one hundred dollars ($100.00) out-of-pocket per calendar year."

Sec. 21.10. G.S. 135-37 is amended by rewriting the last sentence to read:

"Provided, however, such information may be released to the State Auditor, or to the Attorney General, or to the persons designated under G.S. 135-39.3 in furtherance of their statutory duties and responsibilities, or to such independent auditors as may be designated and approved by the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan, but such information shall retain its character as confidential information exempt from Chapter 132 of the General Statutes and other provisions of a similar nature when so acquired."

Sec. 21.11. G.S. 105A-2(1), as found in the 1981 Supplement, is amended by deleting the word "and" from subdivision k., by changing the period following subdivision m. to a semicolon, and by adding a new subdivision n. to read:

"n. The Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan, established in Article 3 of General Statutes Chapter 135."

Sec. 21.12. In order to provide a Reserve for Conversion pursuant to G.S. 135-40.12, every current employee enrolled in the Plan shall have deducted from his monthly salary the amount of twenty-five cents (25¢) to be paid to the

Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. Every employing agency of the enrolled employee shall also pay to the Board of Trustees a like monthly amount to be used to provide a Reserve for Conversion. Once an employee or dependent converts to nongroup coverage in accordance with G.S. 135-40.12, premiums shall be on a fully contributory basis.

Sec. 22. Sections 1, 2, 3, 19, 20, 21, 21.10, and 21.11 of this act are effective upon ratification. Section 21.2 shall become effective October 1, 1983. Section 21.6 shall become effective October 1, 1983, but any otherwise qualified person covered under the Plan at any time from October 1, 1982 through September 30, 1983 may obtain coverage under that section beginning October 1, 1983. Section 21.12 shall become effective October 1, 1983. Sections 21.7, 21.8, and 21.9 shall become effective January 1, 1984. The remainder of the act shall become effective retroactive to October 1, 1982.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

S. B. 313 CHAPTER 923

AN ACT MAKING APPROPRIATIONS FOR VARIOUS LOCAL PROJECTS.

TABLE OF CONTENTS

Bill No.	Short Title	Sec. No.
HB 90	Harmony Hall Funds	Sec. 1
HB 113	Disabled Care Project	Sec. 159
HB 133	Northampton Museum Funds	Sec. 2
HB 134	Historic Murfreesboro Funds	Sec. 3
HB 139	Hotel Freeman Funds	Sec. 4
HB 159	Family Support Centers	Sec. 160
HB 172	"From This Day Forward" Funds	Sec. 5
HB 216	Roanoke River Boat Funds	Sec. 223
HB 218	Cashie River Boat Access	Sec. 224
HB 269	Homeownership Assistance Fund	Sec. 203
HB 287	Morganton Center-Hearing Impaired	Sec. 161
HB 328	Wright Brothers Anniversary Funds	Sec. 6
HB 380	King-Bazemore House Funds	Sec. 7
HB 382	Funds for Archeological Site	Sec. 8
HB 387	YMI Cultural Center Funds	Sec. 9
HB 403	Autistic Children	Sec. 162
HB 404	Town of Hazelwood Approp.	Sec. 225
HB 406	"Strike At the Wind" Funds	Sec. 10
HB 412	Carson Cabin Funds	Sec. 11
HB 430	Historic Preservation Fund Approp.	Sec. 12
HB 446	Mitchell Comm. Coll.	Sec. 148
HB 464	Burke Courthouse Funds	Sec. 13
HB 470	Hiddenite Center Project	Sec. 14
HB 476	Ed. Resource Center	Sec. 149
HB 496	Farmers Mkt. - Charlotte	Sec. 226
HB 508	Cabarrus Courthouse Funds	Sec. 15
HB 515	Fleming House Funds	Sec. 16
HB 533	Funds for Winton's Brown Hall	Sec. 17

HB 547	Forsyth Nature Center Funds	Sec. 18
HB 563	Swansboro Archaeological Project Funds	Sec. 19
HB 577	Carolina Theater Funds	Sec. 20
HB 609	Gallery Theatre Funds	Sec. 21
HB 610	Ahoskie Historical Survey Funds	Sec. 22
HB 614	Weymouth Center Funds	Sec. 23
HB 615	Chicamacomico Station Funds	Sec. 24
HB 619	Historic Hope Funds	Sec. 25
HB 639	Malcolm Blue Farm Funds	Sec. 26
HB 641	Cleveland Historical Museum Funds	Sec. 27
HB 655	Asa Biggs Homeplace Funds	Sec. 28
HB 657	Protect Swift Creek Twp.	Sec. 204
HB 672	Tobacco Festival Funds	Sec. 29
HB 678	Marks House Funds	Sec. 30
HB 679	Approp. - Stanly Agri. Bldg.	Sec. 227
HB 685	Establish Farmworker Council	Sec. 205
HB 703	Fort Macon Funds	Sec. 228
HB 706	Stonewall Funds	Sec. 31
HB 728	Grifton Painting Display Funds	Sec. 32
HB 735	Hyde County ADAP	Sec. 163
HB 740	Matthews HELP Center	Sec. 164
HB 741	Ayden Painting Display Funds	Sec. 33
HB 747	Reid House Funds	Sec. 34
HB 750	Western N. C. Public Radio Funds	Sec. 206
HB 756	"Sword of Peace" Funds	Sec. 35
HB 761	Historic Bethabara Funds	Sec. 36
HB 777	Crime Reduction Program	Sec. 165
HB 781	Northampton Courthouse Funds	Sec. 37
HB 786	Gates Courthouse Funds	Sec. 38
HB 793	Latham House Funds	Sec. 39
HB 794	Cupola/Barker House Funds	Sec. 40
HB 807	Edgecombe Historic Fund Approp.	Sec. 41
HB 812	Guilford OAR Funds	Sec. 218
HB 820	Stokes County Survey Funds	Sec. 42
HB 841	Approp. Henderson Traffic Control	Sec. 229
HB 846	Hamlet Railroad Depot Funds	Sec. 43
HB 859	New Hanover Public Radio	Sec. 207
HB 867	Bright Leaf Hoedown Funds	Sec. 44
HB 871	Northeast Center for Human Development	Sec. 166
HB 872	Joel Lane House Funds	Sec. 45
HB 876	Cherokee Museum Funds	Sec. 46
HB 877	Alamance Historical Museum Funds	Sec. 47
HB 889	Hampton Mariner's Museum Funds	Sec. 230
HB 895	Lakeland Arts Center Funds	Sec. 48
HB 897	Silvermont Restoration Funds	Sec. 49
HB 903	Pender County Museum Funds	Sec. 50
HB 908	Western N.C. Development Funds	Sec. 231
HB 927	"Unto These Hills" Funds	Sec. 51
HB 931	Pilot Mountain Recreational Park	Sec. 232
HB 940	Old Caswell County Courthouse Funds	Sec. 52

HB 968	Juvenile Center Chapel	Sec. 167
HB 981	Forestry Service Funds	Sec. 233
HB 998	Opportunities Indus. Center Funds	Sec. 234
HB 1011	Seven Springs Boat Access	Sec. 235
HB 1020	Blowing Rock Arts Center Funds	Sec. 53
HB 1024	Frank Holder Dance Company Funds	Sec. 54
HB 1025	Transylvania Courthouse Funds	Sec. 55
HB 1027	Smith-McDowell House Museum Funds	Sec. 56
HB 1030	Mendenhall Plantation Funds	Sec. 57
HB 1051	Carteret, Onslow Elderly Screening	Sec. 168
HB 1078	John Carson House Funds	Sec. 58
HB 1082	Person Elderly Screening	Sec. 169
HB 1096	Alexander Dickson House Funds	Sec. 59
HB 1097	Hillsborough Cemetery Funds	Sec. 60
HB 1102	Rockingham Theater Funds	Sec. 61
HB 1110	Holy Angels Nursery Funds	Sec. 170
HB 1120	Tobacco Research Funds	Sec. 150
HB 1121	Campbell House Funds	Sec. 62
HB 1151	Swain County Courthouse Funds	Sec. 63
HB 1159	Lincoln Hwy. Ptr. Funds	Sec. 236
HB 1172	Brunswick Boat Ramp Funds	Sec. 237
HB 1181	Aberdeen Railroad Depot Funds	Sec. 64
HB 1186	Eastern Music Festival Funds	Sec. 65
HB 1193	Brunswick Town Historic Site Funds	Sec. 66
HB 1195	Public Radio Grants	Sec. 151
HB 1200	Mecklenburg Crime Reduction	Sec. 171
HB 1216	Yancey Development Funds	Sec. 238
HB 1220	Historic Halifax Funds	Sec. 67
HB 1230	Wake Elderly Screening	Sec. 172
HB 1242	N. C. Flag in 4th Grade	Sec. 152
HB 1255	Shakespeare Festival Funds	Sec. 68
HB 1259	Regional Arts Funds	Sec. 69
HB 1265	Tammy Lynn Foundation	Sec. 173
HB 1268	Yancey 150th Birthday Funds	Sec. 70
HB 1274	Control Beaver Pop./Columbus Co.	Sec. 239
HB 1278	High Point Environmental Center	Sec. 240
HB 1286	William Penn Auditorium Funds	Sec. 71
HB 1290	Buncombe Dry Ridge Museum Funds	Sec. 72
HB 1291	Learning Together	Sec. 174
HB 1293	Approp. - Moore Regional Park	Sec. 241
HB 1300	Hayesville Water System	Sec. 175
HB 1301	Great Smoky Mtn. Festival Funds	Sec. 73
HB 1304	Davie Schools Asbestos Removal	Sec. 153
HB 1305	Davidson Inventory Publication Funds	Sec. 74
HB 1313	Selma Union Station Funds	Sec. 75
HB 1323	Chatham County Crisis	Sec. 176
HB 1324	Chatham Sheltered Workshop	Sec. 177
HB 1325	McDowell Comm. of 100, Inc., Funds	Sec. 242
HB 1333	Police/Community Relations Training	Sec. 219
HB 1350	Wake Arts Together Center Funds	Sec. 76

HB 1357	Reeves Center Funds	Sec. 243
HB 1358	Surry Field School Funds	Sec. 77
HB 1359	Bladen Funds for Fire Stations	Sec. 244
HB 1372	Soil, Water Conservation Funds	Sec. 245
HB 1381	Bladen Indus. Park Study Funds	Sec. 246
HB 1391	Nash Tech Funds	Sec. 154
HB 1397	Estey Hall Funds	Sec. 78
HB 1406	Mecklenburg Youth Council	Sec. 178
HB 1407	Mecklenburg Minority Affairs Office	Sec. 179
HB 1416	Rutherford Industrial Develop. Funds	Sec. 247
HB 1417	Polk Industrial Development Funds	Sec. 248
HB 1418	Columbus 100 Committee Funds	Sec. 249
HB 1422	Cleveland County Courthouse Funds	Sec. 79
HB 1424	Mount Olive Depot Funds	Sec. 80
HB 1425	Fremont Community Center Funds	Sec. 81
HB 1426	Rutherford County Library Funds	Sec. 82
HB 1427	Children's Center Vocational	Sec. 180
HB 1428	Garland Rec. Dept.	Sec. 208
HB 1429	Union Rescue Squad	Sec. 209
HB 1430	Goldsboro Arts Council Funds	Sec. 83
HB 1431	Duplin Airport Funds	Sec. 250
HB 1432	Cleveland Memorial Library Funds	Sec. 84
HB 1435	Alamance County Arts Council	Sec. 85
HB 1436	Friends of the Carousel, Burlington	Sec. 86
HB 1438	Union Courthouse Funds	Sec. 87
HB 1440	Swansboro Bicentennial Funds	Sec. 88
HB 1442	Johnston Airport Funds	Sec. 251
HB 1448	Cumberland Dev. Funds	Sec. 252
HB 1450	Aberdeen Station Funds	Sec. 89
HB 1452	Robeson Co. Community Center	Sec. 181
HB 1457	Teen Ctr. Youth Funds	Sec. 210
SB 81	Brushy Mtn. Apple Festival Funds	Sec. 111
SB 85	Funds for Discovery Place	Sec. 112
SB 99	Fayetteville Branch Museum Funds	Sec. 113
SB 104	Waynesborough Park Appropriation	Sec. 257
SB 112	Newbold-White House Funds	Sec. 114
SB 135	Wright Brothers Anniversary Funds	Sec. 6
SB 171	Historic Preservation Fund Approp.	Sec. 12
SB 193	Blandwood Dependencies Funds	Sec. 115
SB 195	Schiele Museum Funds	Sec. 116
SB 205	Temple Theater Restoration Funds	Sec. 117
SB 212	Establish Institute of Medicine	Sec. 197
SB 213	Funds for Person Place	Sec. 118
SB 225	Rhododendron Festival Funds	Sec. 119
SB 227	Old Salem Funds	Sec. 120
SB 234	Andrew Jackson Memorial Funds	Sec. 121
SB 243	Union County Courthouse Funds	Sec. 122
SB 250	John C. Campbell Folk School Funds	Sec. 123
SB 264	American Dance Festival Funds	Sec. 124
SB 281	Old Richmond Courthouse Funds	Sec. 125

SB 302	Haywood Hall Funds	Sec. 126
SB 305	Approp. - W. Onslow Beach Ramp Funds	Sec. 258
SB 313	St. Joseph's Historic Found. Funds	Sec. 127
SB 334	Garner Vol. Fire Dept. Funds	Sec. 215
SB 351	Mill Prong Funds	Sec. 128
SB 358	Historical Currituck Teacherage Funds	Sec. 129
SB 360	N. C. Dance Theater Funds	Sec. 130
SB 371	Grimes Mill/Hall House Funds	Sec. 131
SB 377	Weymouth Center Funds	Sec. 23
SB 379	Carteret Courthouse Funds	Sec. 132
SB 380	Hampton Mariner's Museum Funds	Sec. 230
SB 417	Cedar Island Boat Ramp Funds	Sec. 259
SB 425	Spencer Shops Funds	Sec. 133
SB 442	Hickory Arts Funds	Sec. 134
SB 476	Funds for Town Creek Indian Mound	Sec. 135
SB 487	Museum of Albemarle Funds	Sec. 136
SB 499	Gaston Art 37 History Museum Funds	Sec. 137
SB 500	Farris Park Funds	Sec. 138
SB 548	Thomas Wolfe Visitor Center Funds	Sec. 139
SB 557	Robeson Prerelease Center Funds	Sec. 222
SB 559	Roanoke Island Center Funds	Sec. 140
SB 560	Durham Arts Center Funds	Sec. 141
SB 561	Charlotte Hawkins Brown Site Funds	Sec. 142
SB 575	International Folk Festival Funds	Sec. 143
SB 594	Kenly Development Funds	Sec. 260
SB 597	Regional Arts Funds	Sec. 69
SB 600	Cultural Res. Eastern Office Funds	Sec. 144
SB 612	Autistic Adult Group Home	Sec. 198
SB 632	ACCEPT Fund	Sec. 199
SB 652	Tribal Training Funds	Sec. 216
SB 672	Mountain Youth Resources	Sec. 200
SB 674	Sampson Tech Funds	Sec. 156
SB 677	Funds for Rockingham School Land	Sec. 157
SB 678	School for Deaf Equipment Funds	Sec. 201
SB 683	Orange County Sheltered Workshop	Sec. 202
SB 687	Tater Hole Boat Ramp Funds	Sec. 261
SB 696	Martin County Players Funds	Sec. 145
No Bill	Great Smoky Mts. Nat'l. Pk. Funds	Sec. 90
No Bill	Southmont Community Center Funds	Sec. 91
No Bill	Thomasville Garden Club Funds	Sec. 92
No Bill	Davidson Arts Council Funds	Sec. 93
No Bill	Fort Fisher Ferry Guide Funds	Sec. 94
No Bill	N. C. Spot Festival Funds	Sec. 95
No Bill	Hampstead Library Funds	Sec. 96
No Bill	Volunteer Fire Dept. Equip. Funds	Sec. 97
No Bill	Oyster Festival Funds	Sec. 98
No Bill	Town Creek Park Funds	Sec. 99
No Bill	Caswell Civic Center Funds	Sec. 100
No Bill	Henderson Student Association Funds	Sec. 101
No Bill	Granville Senior Citizens Park Funds	Sec. 102

No Bill	Granville Historical Society Funds	Sec. 103
No Bill	Granville County Arts Council Funds	Sec. 104
No Bill	Cumberland Library Funds	Sec. 105
No Bill	Cannon Memorial YMCA Library Funds	Sec. 106
No Bill	Buncombe Folk Art Center Funds	Sec. 107
No Bill	Starnes Auditorium Funds	Sec. 108
No Bill	Winston-Salem Urban Arts Funds	Sec. 109
No Bill	"Liberty Cart" Funds	Sec. 110
No Bill	Belle Chere Festival Funds	Sec. 146
No Bill	Columbus Courthouse Funds	Sec. 147
No Bill	ESAM Project	Sec. 155
No Bill	Coastal Carolina Community College	Sec. 158
No Bill	Alleghany Sheltered Workshop	Sec. 182
No Bill	HELP, Inc.	Sec. 183
No Bill	Onslow County Area Mental Health Funds	Sec. 184
No Bill	Urban Ministries Center, Inc.	Sec. 185
No Bill	Durham Rescue Mission, Inc.	Sec. 186
No Bill	Davidson Alcoholic Care	Sec. 187
No Bill	Rainbow House for Terminally Ill Children	Sec. 188
No Bill	Day Care Funds For Madison County	Sec. 189
No Bill	Youth Career Development Project	Sec. 190
No Bill	Downtown Senior Center	Sec. 191
No Bill	Displaced Homemakers Program	Sec. 192
No Bill	YMCA Funds	Sec. 193
No Bill	YMCA Youth Development	Sec. 194
No Bill	Project New Start and Day Camp Handicapped	Sec. 195
No Bill	Experiment in Self Reliance	Sec. 196
No Bill	Women in Non-Traditional Jobs	Sec. 211
No Bill	Gladiator Boxing Club	Sec. 212
No Bill	Senior Citizens Pk.	Sec. 213
No Bill	New Clemmons Fire Dept.	Sec. 214
No Bill	"Operation Get Smart" Funds	Sec. 220
No Bill	Greensboro Crime Prevention	Sec. 221
No Bill	Rockingham-Richmond Econ. Dev.	Sec. 253
No Bill	Kernersville Civitan Park	Sec. 254
No Bill	Covington Park	Sec. 255
No Bill	Broadway Park Funds	Sec. 256
No Bill	Mecklenburg Parks and Recreation	Sec. 262
No Bill	E. Arcadia Fire Dept.	Sec. 263
Miscellaneous Provisions		Sec. 217

The General Assembly of North Carolina enacts:

Part 1. Cultural Resources

HB 90, Harmony Hall Funds

Reps. Anderson, Barker, Lilley

Sec. 1. There is appropriated from the General Fund to the Lenoir County Historical Association, Inc., the sum of twenty thousand dollars ($20,000) for the 1983-84 fiscal year to complete the restoration of Harmony Hall in Kinston.

HB 133, Northampton Museum Funds

Reps. Creecy, Gillam

Sec. 2. There is appropriated from the General Fund to Northampton County Museum, Inc., the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to renovate Northampton Museum and to prepare exhibition areas.

HB 134, Historic Murfreesboro Funds

Reps. Creecy, Gillam

Sec. 3. There is appropriated from the General Fund to the Murfreesboro Historical Association, Inc., the sum of ten thousand dollars ($10,000) for the 1983-84 fiscal year for the renovation of the Murfree Law Office in Murfreesboro.

HB 139, Hotel Freeman Funds

Reps. Creecy, Gillam

Sec. 4. There is appropriated from the General Fund to the Town of Windsor in Bertie County the sum of ten thousand dollars ($10,000) for the 1983-84 fiscal year for an adaptive restoration of the Hotel Freeman (Pearl) by the Town, provided a like amount is raised by the Town to match the grand-in-aid on a dollar-for-dollar basis.

HB 172, "From This Day Forward" Funds

Rep. Fletcher

Sec. 5. There is appropriated from the General Fund to the Outdoor Theatre Fund Charitable Trust the sum of five thousand dollars ($5,000) for fiscal year 1983-84 to be used by the Old Colony Players to produce the outdoor drama "From This Day Forward."

HB 328, Wright Brothers Anniversary Funds

Rep. Evans

SB 135, Wright Brothers Anniversary Funds

Sen. Daniels

Sec. 6. There is appropriated from the General Fund to the First Flight Society for fiscal year 1983-84 the sum of twenty thousand dollars ($20,000) to be used by the Society in commemorating the 80th anniversary of the Wright brothers great achievement, and to bring national and world recognition to the historical first flight at Kitty Hawk, North Carolina.

HB 380, King-Bazemore House Funds

Reps. Creecy, Gillam

Sec. 7. There is appropriated from the General Fund to the Historic Hope Foundation the sum of fifteen thousand dollars ($15,000) for fiscal year 1983-84 to restore the King-Bazemore House located near Windsor, Bertie County.

HB 382, Funds for Archeological Site

Reps. Creecy, Gillam

Sec. 8. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, the sum of one thousand dollars ($1,000) for fiscal year 1983-84 to conduct archeological investigations related to the Native American and Anglo-American occupations at the Princeton site (31NP93).

HB 387, YMI Cultural Center Funds

Reps. Colton, N.J. Crawford, Greenwood, Nesbitt

Sec. 9. There is appropriated from the General Fund to the Young Men's Institute Cultural Center, Inc., in Asheville the sum of two thousand dollars ($2,000) for fiscal year 1983-84 to make capital improvements to its building.

HB 406, "Strike At the Wind" Funds

Reps. DeVane, Hasty, Locks

Sec. 10. There is appropriated from the General Fund to the Robeson Historical Drama, Incorporated, the sum of thirty-five thousand dollars ($35,000) for the fiscal year 1983-84 for continued production of the outdoor drama "Strike at the Wind."

HB 412, Carson Cabin Funds

Reps. Colton, N.J. Crawford, Greenwood, Nesbitt

Sec. 11. There is appropriated from the General Fund to the Big Ivy Historical Society the sum of twenty thousand dollars ($20,000) for fiscal year 1983-84 for the restoration of the Henry Stevens Carson Cabin in Buncombe County, provided a like amount is raised by the Society to match this grant-in-aid on a dollar-for-dollar basis. The Society may satisfy this matching requirement by providing a combination of funds, in-kind services, supplies, and land with a total value of twenty thousand dollars ($20,000).

HB 430, Historic Preservation Fund Approp.

Rep. Colton

SB 171, Historic Preservation Fund Approp.

Sens. Tally, Rand

Sec. 12. (a) There is appropriated from the General Fund to the Historic Preservation Fund of North Carolina, Inc., for the 1983-84 fiscal year the sum of ninety-five thousand dollars ($95,000) to expand North Carolina's statewide revolving fund for historic preservation, provided a like amount is raised by the Historic Preservation Fund after the effective date of this section to match the grant-in-aid on a dollar-for-dollar basis. Funds appropriated in this section shall be expended only in accordance with special criteria and regulations to be developed by the North Carolina Historical Commission and the Department of Cultural Resources applicable to the operation of statewide revolving funds.

(b) There is appropriated from the General Fund to the Historic Preservation Society of North Carolina, Inc., for the 1983-84 fiscal year the sum of twenty thousand dollars ($20,000) to expand North Carolina's statewide membership organization for historic preservation, provided a like amount is raised by the Historic Preservation Society after the effective date of this section to match the grant-in-aid on a dollar-for-dollar basis. Funds appropriated in this section shall be expended only in accordance with special

criteria and regulations to be developed by the North Carolina Historical Commission and the Department of Cultural Resources applicable to the operation of statewide membership organizations.

HB 464, Burke Courthouse Funds

Rep. Fletcher

Sec. 13. There is appropriated from the General Fund to the Historic Burke Foundation the sum of forty-five thousand dollars ($45,000) for the 1983-84 fiscal year for the rehabilitation of the old Burke County Courthouse. Because over two hundred thousand dollars ($200,000) has already been raised at the local level for the project, no further match is required.

HB 470, Hiddenite Center Project

Rep. Huskins

Sec. 14. There is appropriated from the General Fund to Hiddenite Center, Inc., the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to further the restoration of the James Paul Lucas House in Alexander County, provided a like amount is raised by the Center to match this grant-in-aid on a dollar-for-dollar basis.

HB 508, Cabarrus Courthouse Funds

Reps. Quinn, Hudson, Thomas, Slaughter
Sens. Tison, Jenkins, Lawing

Sec. 15. There is appropriated from the General Fund to Historic Cabarrus, Inc., the sum of one hundred twenty-five thousand dollars ($125,000) for the 1983-84 fiscal year for the continued restoration and rehabilitation of the old Cabarrus County Courthouse.

HB 515, Fleming House Funds

Reps. Jones, Warren

Sec. 16. There is appropriated from the General Fund to the City of Greenville for fiscal year 1983-84 the sum of seventy thousand dollars ($70,000) to reimburse the Pitt-Greenville Chamber of Commerce, Inc., for restoration of the Historic Fleming House or to allow additional restoration work, or both.

HB 533, Funds for Winton's Brown Hall

Reps. Creecy, Gillam

Sec. 17. There is appropriated from the General Fund to the Town of Winton in Hertford County the sum of seven thousand dollars ($7,000) for fiscal year 1983-84 to restore and renovate Brown Hall.

HB 547, Forsyth Nature Center Funds

Reps. Childress, Hauser, Kennedy, Tennille, Womble

Sec. 18. There is appropriated from the General Fund to the Nature Science Center of Forsyth County, Inc., the sum of seventy-five thousand dollars ($75,000) for fiscal year 1983-84 to be used as operating funds by the Nature Science Center.

HB 563, Swansboro Archaeological Project Funds

Rep. Bruce Ethridge

Sec. 19. There is appropriated from the General Fund to Swansboro's 200th Anniversary Celebration Committee the sum of fourteen thousand dollars ($14,000) for fiscal year 1983-84 to assist financially the Swansboro Underwater Archaeological Project scheduled for the summer of 1983.

HB 577, Carolina Theater Funds

Reps. DeVane, Hasty, Locks

Sec. 20. There is appropriated from the General Fund to the Carolina Civic Center Foundation, Inc., the sum of thirty-five thousand dollars ($35,000) for fiscal year 1983-84 to rehabilitate the Carolina Theater in Robeson County, provided that a like amount is raised by the Carolina Civic Center Foundation to match the grant-in-aid on a dollar-for-dollar basis.

HB 609, Gallery Theatre Funds

Reps. Creecy, Gillam

Sec. 21. There is appropriated from the General Fund to the Town of Ahoskie in Hertford County the sum of five thousand dollars ($5,000) for fiscal year 1983-84 for the continued restoration and renovation of the Gallery Theatre, provided a like amount is raised by the Town of Ahoskie to match this grant on a dollar-for-dollar basis.

HB 610, Ahoskie Historical Survey Funds

Reps. Creecy, Gillam

Sec. 22. (a) There is appropriated from the General Fund to the Ahoskie Preservation Commission the sum of two thousand dollars ($2,000) for fiscal year 1983-84 to conduct a survey of historically and architecturally significant structures in the Town of Ahoskie and the area within a one-mile radius of Ahoskie, and to nominate a downtown historic district in Ahoskie to the National Register of Historic Places.

(b) The survey and nomination for which this section appropriates funds shall be performed in accordance with standards and guidelines for survey and nomination projects established by the Archaeology and Historic Preservation Section of the Division of Archives and History, Department of Cultural Resources, and shall be conducted under the professional supervision of that agency.

HB 614, Weymouth Center Funds

Rep. Auman

SB 377, Weymouth Center Funds

Sens. Hunt, Walker

Sec. 23. There is appropriated from the General Fund to the Friends of Weymouth, Inc., the sum of twenty thousand dollars ($20,000) for fiscal year 1983-84 for the enhancement of the cultural purposes of the Weymouth Center, provided that a like amount is raised by the Friends of Weymouth, Inc., to match the grant-in-aid on a dollar-for-dollar basis.

HB 615, Chicamacomico Station Funds

Rep. Evans

Sec. 24. There is appropriated from the General Fund to the Chicamacomico Historical Association, Inc., the sum of eleven thousand dollars ($11,000) for the 1983-84 fiscal year to assist in the restoration of the Chicamacomico Lifesaving Station.

HB 619, Historic Hope Funds

Reps. Creecy, Gillam

Sec. 25. (a) There is appropriated from the General Fund to the Historic Hope Foundation the sum of fourteen thousand dollars ($14,000) for the 1983-84 fiscal year to plan and design an educational visitors center for Historic Hope Plantation.

(b) Matching funds for this appropriation shall be the current 1983-84 operations budget of Historic Hope Plantation and donated hostess and other services.

HB 639, Malcolm Blue Farm Funds

Rep. Auman

Sec. 26. There is appropriated from the General Fund to the Malcolm Blue Historical Society for fiscal year 1983-84 the sum of five thousand dollars ($5,000) for the further development of the Malcolm Blue Farm, provided a like amount is raised by the Malcolm Blue Historical Society to match this grant-in-aid on a dollar-for-dollar basis.

HB 641, Cleveland Historical Museum Funds

Rep. Lutz

Sec. 27. There is appropriated from the General Fund to the Cleveland County Historical Association for fiscal year 1983-84 the sum of ten thousand dollars ($10,000) to develop educational programs and interpretive exhibits and upgrade storage facilities in the Cleveland County Historical Museum, provided a like amount is raised by the Cleveland County Historical Association to match the grant-in-aid on a dollar-for-dollar basis.

HB 655, Asa Biggs Homeplace Funds

Reps. Creecy, Gillam

Sec. 28. There is appropriated from the General Fund to the Martin County Historical Society, Inc., the sum of twelve thousand dollars ($12,000) for the 1983-84 fiscal year for the restoration of the Asa Biggs homeplace, provided that a like amount is raised by the Society to match the grant-in-aid on a dollar-for-dollar basis.

HB 672, Tobacco Festival Funds

Reps. Jones, Warren

Sec. 29. There is appropriated from the General Fund to the Southern Flue-Cured Tobacco Festival, Inc., for fiscal year 1983-84 the sum of ten thousand dollars ($10,000) to sponsor the Southern Flue-Cured Tobacco Festival, provided a like amount is raised by the Festival to match the grant-in-aid on a dollar-for-dollar basis.

HB 678, Marks House Funds

Rep. Slaughter

Sec. 30. There is appropriated from the General Fund to the Stanly County Historic Properties Commission the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 for the continued restoration of the Marks House in Stanly County.

HB 706, Stonewall Funds

Reps. Barbee, Fenner, Mavretic

Sec. 31. There is appropriated from the General Fund to the Nash County Historical Association, Inc., the sum of twenty-five thousand dollars ($25,000) for fiscal year 1983-84 to complete the restoration and interior rehabilitation of Stonewall, provided a like amount is raised by the Association to match the grant on a dollar-for-dollar basis.

HB 728, Grifton Painting Display Funds

Reps. Jones, Warren

Sec. 32. There is appropriated from the General Fund to the Town of Grifton, Pitt County, the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to preserve the history of the Grifton area through artistic paintings, to be on display throughout the community.

HB 741, Ayden Painting Display Funds

Reps. Jones, Warren

Sec. 33. There is appropriated from the General Fund to the Town of Ayden, Pitt County, the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to preserve the history of the Ayden area through artistic paintings, to be on display in the Town of Ayden.

HB 747, Reid House Funds

Reps. Holt, McAlister, McDowell

Sec. 34. There is appropriated from the General Fund to the Reidsville Historic Properties Commission for the 1983-84 fiscal year the sum of twenty-seven thousand dollars ($27,000) for the continued restoration of the Governor David S. Reid House in Reidsville, provided a like amount is raised by the Commission to match the grant-in-aid on a dollar-for-dollar basis.

HB 756, "Sword of Peace" Funds

Reps. Holt, McAlister, McDowell

Sec. 35. There is appropriated from the General Fund to the Snow Camp Historical Drama Society, Inc., the sum of twenty thousand dollars ($20,000) for fiscal year 1983-84 for continued production of "The Sword of Peace."

HB 761, Historic Bethabara Funds

Reps. Childress, Hauser, Kennedy, Tennille, Womble
Sens. R. Barnes, Ward

Sec. 36. There is appropriated from the General Fund to Historic Bethabara, Inc., for fiscal year 1983-84, the sum of ninety thousand dollars ($90,000) for the purpose of constructing a visitor center at Historic Bethabara

and of developing interpretive exhibits and educational programs for the center, provided a like amount is raised by Historic Bethabara, Inc., to match this grant-in-aid on a dollar-for-dollar basis.

HB 781, Northampton Courthouse Funds

Reps. Creecy, Gillam

Sec. 37. There is appropriated from the General Fund to the Northampton County Board of Commissioners the sum of seven thousand dollars ($7,000) for the 1983-84 fiscal year to assist in the adaptive restoration of the Clerk and Register's Office in that county, provided a like amount is raised by the county to match the grant-in-aid on a dollar-for-dollar basis.

HB 786, Gates Courthouse Funds

Rep. James

Sec. 38. There is appropriated from the General Fund to the Gates County Historical Society, Inc., the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 to assist in the restoration of the Gates County Courthouse.

HB 793, Latham House Funds

Rep. Evans

Sec. 39. There is appropriated from the General Fund to the Latham Foundation the sum of twenty-five thousand dollars ($25,000) for the 1983-84 fiscal year to assist in the adaptive restoration of the Latham House in Plymouth, provided a like amount is raised by the Latham Foundation to match the grant-in-aid on a dollar-for-dollar basis.

HB 794, Cupola/Barker House Funds

Rep. Evans

Sec. 40. There is appropriated from the General Fund to the Edenton Historical Commission the sum of fourteen thousand dollars ($14,000) for the 1983-84 fiscal year to assist in the restoration of the Cupola House and Barker House in Edenton, provided a like amount is raised by the Commission to match the grant-in-aid on a dollar-for-dollar basis.

HB 807, Edgecombe Historic Fund Approp.

Reps. Barbee, Fenner, Mavretic

Sec. 41. There is appropriated from the General Fund for the fiscal year 1983-84 the sum of fifty thousand dollars ($50,000) to the Historic Preservation Fund of Edgecombe County, Inc., to establish a pilot program to preserve the rural heritage of Edgecombe County, provided a like amount is raised by the Historic Preservation Fund of Edgecombe County to match the grant-in-aid on a dollar-for-dollar basis. The State Budget Officer shall not release these funds until the matching requirement of this section has been met.

HB 820, Stokes County Survey Funds

Rep. Gentry

Sec. 42. (a) There is appropriated from the General Fund to the Stokes County Historical Society for the 1983-84 fiscal year the sum of fifteen thousand dollars ($15,000) to conduct an inventory of historically and

architecturally significant structures in Stokes County, provided a like amount is raised jointly by the Stokes County Historical Society and Stokes County to match the grant-in-aid on a dollar-for-dollar basis. The Society and Stokes County may satisfy this matching requirement by providing a combination of funds and in-kind services with a total value of fifteen thousand dollars ($15,000).

(b) The inventory shall be performed in accordance with the standards and guidelines for survey projects established by the Archaeology and Historic Preservation Section of the Division of Archives and History, Department of Cultural Resources, and shall be conducted under the professional supervision of that agency.

HB 846, Hamlet Railroad Depot Funds

Rep. Lee

Sec. 43. There is appropriated from the General Fund to the National Railroad Museum and Hall of Fame, Inc., the sum of twenty-five thousand dollars ($25,000) for fiscal year 1983-84 for the rehabilitation of the Hamlet Railroad Depot, provided a like amount is raised by the National Railroad Museum and Hall of Fame to match this grant-in-aid on a dollar-for-dollar basis.

HB 867, Bright Leaf Hoedown Funds

Reps. Watkins, Church, J.W. Crawford

Sec. 44. There is appropriated from the General Fund to the Caswell County Chamber of Commerce the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to sponsor the second annual Bright Leaf Hoedown.

HB 872, Joel Lane House Funds

Reps. Adams, Blue, Fussell, Musselwhite, Sparrow, Stamey

Sec. 45. There is appropriated from the General Fund to Joel Lane House, Inc., the sum of seven thousand five hundred dollars ($7,500) for fiscal year 1983-84 to restore the Adlie Ray Kitchen that has been moved to the Joel Lane House property, provided a like amount is raised by the Colonial Dames of North Carolina through Joel Lane House, Inc., to match the grant-in-aid on a dollar-for-dollar basis.

HB 876, Cherokee Museum Funds

Rep. Enloe

Sec. 46. There is appropriated from the General Fund to the Cherokee County Historical Museum, Inc., the sum of five thousand dollars ($5,000) for fiscal year 1983-84 as a grant-in-aid for capital improvements to the museum.

HB 877, Alamance Historical Museum Funds

Reps. Holt, McAlister, McDowell

Sec. 47. There is appropriated from the General Fund to the Alamance County Historical Museum, Inc., the sum of thirty-five thousand dollars ($35,000) for fiscal year 1983-84 to repair the museum buildings.

HB 895, Lakeland Arts Center Funds

Reps. Watkins, Church, J.W. Crawford

Sec. 48. There is appropriated from the General Fund to the Lakeland Arts Center for fiscal year 1983-84 the sum of fifty thousand dollars ($50,000) for the operation of the Lakeland Arts Center in Littleton.

HB 897, Silvermont Restoration Funds

Rep. Colton, N.J. Crawford, Greenwood, Nesbitt

Sec. 49. There is appropriated from the General Fund to the Transylvania County Board of Commissioners for the 1983-84 fiscal year the sum of two thousand dollars ($2,000) for the continued rehabilitation of Silvermont, including building code improvements.

HB 903, Pender County Museum Funds

Rep. Pool

Sec. 50. There is appropriated from the General Fund to the Pender County Historical Society, Inc., for fiscal year 1983-84 the sum of four thousand dollars ($4,000) to install a climate control system in the Pender County Historical Museum, provided a like amount is raised by the Society to match the grant-in-aid on a dollar-for-dollar basis.

HB 927, "Unto These Hills" Funds

Rep. Beall

Sec. 51. There is appropriated from the General Fund to the Cherokee Historical Association, Inc., the sum of fifty thousand dollars ($50,000) for the 1983-84 fiscal year for capital improvements for the outdoor drama "Unto These Hills," provided a like amount is raised by the Association to match the grant-in-aid on a dollar-for-dollar basis. Funds expended by the Association between July 1, 1982, and July 1, 1983, to renovate the Mountain Side Theater and other facilities shall constitute all or part of the required match.

HB 940, Old Caswell County Courthouse Funds

Rep. N.J. Crawford

Sec. 52. There is appropriated from the General Fund to the Caswell County Board of Commissioners for the 1983-84 fiscal year the sum of six thousand dollars ($6,000) for the continued restoration of the Old Caswell County Courthouse, provided the amount of four thousand dollars ($4,000) is raised by the Board of Commissioners of Caswell County to match this grant-in-aid on a three-to-two basis.

Effective July 1, 1985, Chapter 150A of the General Statutes is repealed, with the exception of G.S. 150A-9 and G.S. 150A-11 through 17.

HB 1020, Blowing Rock Arts Center Funds

Rep. Diamont

Sec. 53. There is appropriated from the General Fund to the Blowing Rock Arts Center in Watauga County the sum of ten thousand dollars ($10,000) for the 1983-84 fiscal year for capital improvements to the Center, provided a like amount is raised at the local level to match the grant-in-aid on a dollar-for-dollar basis.

HB 1024, Frank Holder Dance Company Funds

Rep. Seymour

Sec. 54. There is appropriated from the General Fund to the Frank Holder Dance Company in Greensboro for fiscal year 1983-84 the sum of twenty-five thousand dollars ($25,000) for capital improvements for the Company so it may continue its Rural Communities Program.

HB 1025, Transylvania Courthouse Funds

Rep. Colton, N.J. Crawford, Greenwood, Nesbitt

Sec. 55. There is appropriated from the General Fund to the Transylvania County Board of Commissioners for the 1983-84 fiscal year the sum of forty thousand dollars ($40,000) for the restoration of the Transylvania County Courthouse, provided a like amount is raised by Transylvania County to match the grant-in-aid on a dollar-for-dollar basis.

HB 1027, Smith-McDowell House Museum Funds

Rep. Colton, N.J. Crawford, Greenwood, Nesbitt

Sec. 56. There is appropriated from the General Fund to the Western North Carolina Historical Association the sum of five thousand dollars ($5,000) for the 1983-84 fiscal year to aid the Association in its work with the Smith-McDowell House project in Asheville.

HB 1030, Mendenhall Plantation Funds

Rep. Jarrell

Sec. 57. There is appropriated from the General Fund to the Historic Jamestown Society, Inc., for the 1983-84 fiscal year the sum of eight thousand dollars ($8,000) for the continued rehabilitation of the Richard Mendenhall Plantation, including the Plantation House and outbuildings, provided a like amount is raised by the Society to match this grant-in-aid on a dollar-for-dollar basis with non-State funds.

HB 1078, John Carson House Funds

Rep. Hunter
Sens. Swain, Winner

Sec. 58. There is the appropriated from the General Fund to the Carson House Restoration Corporation for the fiscal year 1983-84 the sum of fifteen thousand dollars ($15,000) for the continued restoration of the John Carson House, provided a like sum is raised by the Corporation to match this grant-in-aid on a dollar-for-dollar basis with non-State funds.

HB 1096, Alexander Dickson House Funds

Rep. Barnes

Sec. 59. (a) There is appropriated from the General Fund to the Preservation Fund of Hillsborough, Inc., for the 1983-84 fiscal year the sum of thirty-five thousand dollars ($35,000) for the restoration of the Alexander Dickson House and its kitchen and the development of educational programs at the Alexander Dickson House upon completion of the restoration, provided a

like amount is raised by the Preservation Fund to match this grant-in-aid on a dollar-for-dollar basis with non-State funds.

(b) Non-State funds expended on the purchase, move, and restoration of the Alexander Dickson House prior to the effective date of this section shall qualify as non-State matching funds for the purposes of this section.

HB 1097, Hillsborough Cemetery Funds

Rep. Hackney

Sec. 60. There is appropriated from the General Fund to the Hillsborough Historical Society for the 1983-84 fiscal year the sum of thirty-five thousand dollars ($35,000) for the continued restoration of the Old Town Cemetery in Hillsborough.

HB 1102, Rockingham Theater Funds

Reps. Holt, McAlister, McDowell

Sec. 61. There is appropriated from the General Fund to the Rockingham County Arts Council for fiscal year 1983-84 the sum of thirty thousand dollars ($30,000) for a grant to purchase and renovate the old Rockingham Theater.

HB 1121, Campbell House Funds

Rep. Bob Etheridge, Wicker

Sec. 62. There is appropriated from the General Fund to the Harnett County Historical Society Foundation, Inc., for the 1983-84 fiscal year the sum of seven thousand dollars ($7,000) to rehabilitate the James A. Campbell House at Buies Creek.

HB 1151, Swain County Courthouse Funds

Rep. Ramsey

Sec. 63. There is appropriated from the General Fund to the Board of Commissioners of Swain County for fiscal year 1983-84 the sum of seventy-five thousand dollars ($75,000) for renovation of the old Swain County Courthouse.

HB 1181, Aberdeen Railroad Depot Funds

Rep. Auman

Sec. 64. There is appropriated from the General Fund to the Trustees of Page Memorial Methodist Church in Aberdeen, the sum of two thousand five hundred dollars ($2,500) for fiscal year 1983-84 for the rehabilitation of the Aberdeen and Asheboro Railroad Depot, provided a like amount is raised by the Trustees to match the grant-in-aid on a dollar-for-dollar basis.

HB 1186, Eastern Music Festival Funds

Rep. Seymour

Sec. 65. There is appropriated from the General Fund to the Eastern Music Festival in Greensboro the sum of twenty-five thousand dollars ($25,000) for fiscal year 1983-84 to provide funds for capital improvements for the Festival.

HB 1193, Brunswick Town Historic Site Funds

Rep. Rabon

Sec. 66. There is appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, the sum of twenty thousand dollars ($20,000) for fiscal year 1983-84 to construct a maintenance building at the Brunswick Town State Historic Site.

HB 1220, Historic Halifax Funds

Rep. Ballance

Sec. 67. There is appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 to restore the jail at the Historic Halifax State Historic Site and to plan and design new exhibits at the visitor center at the Site.

HB 1255, Shakespeare Festival Funds

Rep. Jarrell

Sec. 68. There is appropriated from the General Fund to the North Carolina Shakespeare Festival in High Point the sum of twenty-four thousand dollars ($24,000) for the 1983-84 fiscal year for production and marketing expenses for the Festival. This festival was designated by the General Assembly in 1978 as "the State Shakespeare Festival".

HB 1259, Regional Arts Funds

Rep. Lancaster

SB 597, Regional Arts Funds

Sen. Ward

Sec. 69. There is appropriated from the General Fund to the Department of Cultural Resources for fiscal year 1983-84 the sum of two hundred thousand dollars ($200,000) for the Regional Arts Resources Program.

HB 1268, Yancey 150th Birthday Funds

Rep. Hunter

Sens. Swain, Winner

Sec. 70. There is appropriated from the General Fund to the Yancey History Association for fiscal year 1983-84 the sum of fifteen thousand dollars ($15,000) to hire a coordinator and carry out activities for the 150th year celebration of Yancey County.

HB 1286, William Penn Auditorium Funds

Rep. Jarrell

Sec. 71. There is appropriated from the General Fund to the William Penn Foundation for the fiscal year 1983-84 the sum of twenty-five thousand dollars ($25,000) for the continued rehabilitation of the William Penn High School auditorium, known as the Samuel E. Burford Auditorium, provided that a like amount is raised by the Foundation to match the grant-in-aid on a dollar-for-dollar basis.

HB 1290, Buncombe Dry Ridge Museum Funds

Reps. Colton, N.J. Crawford, Greenwood, Nesbitt

Sec. 72. There is appropriated from the General Fund to the Dry Ridge Historical Museum in Buncombe County the sum of four thousand dollars ($4,000) for the fiscal year 1983-84 to provide lighting fixtures and fire and theft protection devices for the Dry Ridge Historical Museum.

HB 1301, Great Smoky Mtn. Festival Funds

Rep. Enloe

Sec. 73. There is appropriated from the General Fund to the Graham County Chamber of Commerce for fiscal year 1983-84 the sum of three thousand dollars ($3,000) as a grant to assist in the 1983 Great Smoky Mountain Heritage Festival.

HB 1305, Davidson Inventory Publication Funds

Reps. Lambeth, Varner

Sec. 74. (a) There is appropriated from the General Fund to the Davidson County Historical Association the sum of twenty thousand dollars ($20,000) for fiscal year 1983-84 to publish the architectural inventory of Davidson County.

(b) The publication shall conform to the standards and guidelines for inventory publications established by the Archaeology and Historic Preservation Section of the Division of Archives and History, Department of Cultural Resources, and shall be accomplished under the professional supervision of that agency.

HB 1313, Selma Union Station Funds

Reps. Brannan, B.P. Woodard

Sec. 75. There is appropriated from the General Fund to the Selma Historic Properties Commission the sum of twenty thousand dollars ($20,000) for the 1983-84 fiscal year to reroof Union Station in Selma and make other exterior improvements to the station.

HB 1350, Wake Arts Together Center Funds

Reps. Adams, Blue, Fussell, Musselwhite, Sparrow, Stamey

Sec. 76. There is appropriated from the General Fund to Arts Together, Inc., in Wake County the sum of fifteen thousand dollars ($15,000) for fiscal year 1983-84 to underwrite the initial renovation costs of the building that will house the programs of the Arts Together Center.

HB 1358, Surry Field School Funds

Rep. Diamont

Sec. 77. There is appropriated from the General Fund to the Rockford Preservation Society, Inc., the sum of three thousand dollars ($3,000) for the fiscal year 1983-84 to conduct a historic preservation field school in conjunction with Wake Forest University at the site of the 1797 Grant-Burrus Hotel in Rockford, Surry County.

HB 1397, Estey Hall Funds

Reps. Adams, Blue, Fussell, Musselwhite, Sparrow, Stamey

Sec. 78. There is appropriated from the General Fund to the Estey Hall Foundation the sum of seventy thousand dollars ($70,000) for the 1983-84 fiscal year to assist in the adaptive restoration of Estey Hall at Shaw University by the Foundation, provided a like amount is raised by the Foundation to match the grant-in-aid on a dollar-for-dollar basis.

HB 1422, Cleveland County Courthouse Funds

Rep. Lutz

Sec. 79. There is appropriated from the General Fund to the Cleveland County Board of Commissioners the sum of forty thousand dollars ($40,000) for the 1983-84 fiscal year to renovate the old Cleveland County Courthouse in Shelby.

HB 1424, Mount Olive Depot Funds

Rep. C. Woodard

Sec. 80. There is appropriated from the General Fund to the Historical Mount Olive Depot of Mount Olive, Inc., for fiscal year 1983-84 the sum of twenty thousand dollars ($20,000) for the preservation and restoration of the Mount Olive Depot. These funds shall be available only after the Historical Mount Olive Depot of Mount Olive, Inc., receives clear title to the Historical Mount Olive Depot from the Seaboard Coastline Railroad Company, Inc.

HB 1425, Fremont Community Center Funds

Rep. C. Woodard

Sec. 81. There is appropriated from the General Fund to the Fremont Community Center of Fremont, Inc., for fiscal year 1983-84 the sum of twenty thousand dollars ($20,000) for construction and renovation of the community center.

HB 1426, Rutherford County Library Funds

Rep. Owens

Sec. 82. There is appropriated from the General Fund to the Rutherford County Library for the fiscal year 1983-84 the sum of ten thousand dollars ($10,000) to promote mobile book distribution in the county.

HB 1430, Goldsboro Arts Council Funds

Rep. C. Woodard

Sec. 83. There is appropriated from the General Fund to the Community Arts Council of Goldsboro, Inc., for the fiscal year 1983-84 the sum of four thousand dollars ($4,000) for out-reach projects.

HB 1432, Cleveland Memorial Library Funds

Rep. Lutz

Sec. 84. There is appropriated from the General Fund to the Cleveland County Memorial Library for the fiscal year 1983-84 the sum of ten thousand dollars ($10,000) for library use within the county.

HB 1435, Alamance County Arts Council

Reps. Holt, McAlister, McDowell

Sec. 85. There is appropriated from the General Fund to the Alamance County Arts Council in Graham the sum of thirty-five thousand dollars ($35,000) for fiscal year 1983-84 for capital improvements by the Council.

HB 1436, Friends of the Carousel, Burlington

Rep. Holt, Jordan, McAlister, McDowell

Sec. 86. There is appropriated from the General Fund to the Friends of the Carousel in Burlington the sum of three thousand dollars ($3,000) for fiscal year 1983-84 for repairs to the historical carousel.

HP 1438, Union Courthouse Funds

Rep. Hudson

Sec. 87. There is appropriated from the General Fund to the Union County Board of Commissioners for fiscal year 1983-84 the sum of fifty thousand dollars ($50,000) for renovation of the Old Union County Courthouse.

HB 1440, Swansboro Bicentennial Funds

Rep. Bruce Ethridge

Sec. 88. There is appropriated from the General Fund to the Swansboro Two Hundredth Anniversary Celebration Committee the sum of sixteen thousand dollars ($16,000) for fiscal year 1983-84 to provide funds for the Swansboro Bicentennial Park.

HB 1450, Aberdeen Station Funds

Rep. Auman

Sec. 89. There is appropriated from the General Fund to the Union Station Preservation Association for fiscal year 1983-84 the sum of two thousand five hundred dollars ($2,500) for a grant-in-aid to restore Union Station in Aberdeen for use as a community center.

No Bill, Great Smoky Mts. Nat'l. Pk. Funds

Rep. Colton

Sec. 90. There is appropriated from the General Fund to the Office of State Budget and Management the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 for use by the North Carolina National Park, Parkway, and Forests Development council to promote the golden anniversary celebration of the Great Smoky Mountains National Park.

No Bill, Southmont Community Center Funds

Reps. Lambeth, Varner

Sec. 91. There is appropriated from the General Fund to the Southmont Community Center in Rowan County the sum of five thousand dollars ($5,000) for fiscal year 1983-84 as a grant-in-aid.

No Bill, Thomasville Garden Club Funds

Reps. Lambeth, Varner

Sec. 92. There is appropriated from the General Fund to the Garden Club Council of Thomasville the sum of five thousand dollars ($5,000) for fiscal year 1983-84 to complete the bandstand in the Town Commons in Thomasville.

No Bill, Davidson Arts Council Funds

Reps. Lambeth, Varner

Sec. 93. There is appropriated from the General Fund to the Arts Council for Davidson County the sum of twenty thousand dollars ($20,000) for fiscal year 1983-84 as a grant-in-aid.

No Bill, Fort Fisher Ferry Guide Funds

Rep. Rabon

Sec. 94. There is appropriated from the General Fund to the Department of Cultural Resources, Historic Sites Section, the sum of four thousand dollars ($4,000) for fiscal year 1983-84 to provide an oral history tour guide on the Southport Fort Fisher Ferry during the summer season.

No Bill, N. C. Spot Festival Funds

Rep. Rabon

Sec. 95. There is appropriated from the General Fund to the North Carolina Spot Festival, Inc., in Pender County, the sum of one thousand dollars ($1,000) for fiscal year 1983-84 to sponsor the Spot Festival.

No Bill, Hampstead Library Funds

Rep. Rabon

Sec. 96. There is appropriated from the General Fund to the Pender County Board of Commissioners the sum of one thousand dollars ($1,000) for fiscal year 1983-84 for the Hampstead Public Library in Pender County.

No Bill, Volunteer Fire Dept. Equip. Funds

Rep. Rabon

Sec. 97. There is appropriated from the General Fund to the Castle Hayne Volunteer Fire Department and to the Wrightsboro Volunteer Fire Department the sum of one thousand dollars ($1,000) each for fiscal year 1983-84 for equipment for the Department.

No Bill, Oyster Festival Funds

Rep. Rabon

Sec. 98. There is appropriated from the General Fund to the North Carolina Oyster Festival, Inc., in Brunswick County the sum of one thousand dollars ($1,000) for fiscal year 1983-84 to sponsor the Oyster Festival.

No Bill, Town Creek Park Funds

Rep. Rabon

Sec. 99. There is appropriated from the General Fund to the Brunswick County Parks and Recreation Department the sum of four thousand dollars

($4,000) for fiscal year 1983-84 for the Town Creek District Township Park in Brunswick County.

No Bill, Caswell Civic Center Funds

Reps. Watkins, Church, J.W. Crawford

Sec. 100. There is appropriated from the General Fund to the Caswell County Civic Center the sum of five thousand dollars ($5,000) for fiscal year 1983-84 as a grant-in-aid.

No Bill, Henderson Student Association Funds

Rep. Watkins

Sec. 101. There is appropriated from the General Fund to the Henderson Graduate and Former Student Association, Inc., in Granville County the sum of seven thousand dollars ($7,000) for fiscal year 1983-84 to restore and renovate the former Henderson Institute Library Building.

No Bill, Granville Senior Citizens Park Funds

Reps. Watkins, Church, J.W. Crawford

Sec. 102. There is appropriated from the General Fund to the Granville County Senior Citizens Park the sum of three thousand five hundred dollars ($3,500) for fiscal year 1983-84 as a grant-in-aid.

No Bill, Granville Historical Society Funds

Reps. Watkins, Church, J.W. Crawford

Sec. 103. There is appropriated from the General Fund to the Granville County Historical Society the sum of eight thousand dollars ($8,000) for fiscal year 1983-84 to establish a survey fund.

No Bill, Granville County Arts Council Funds

Reps. Watkins, Church, J.W. Crawford

Sec. 104. There is appropriated from the General Fund to the Granville County Arts Council the sum of three thousand five hundred dollars ($3,500) for fiscal year 1983-84 as a grant-in-aid.

No Bill, Cumberland Library Funds

Rep. Clark
Sens. Rand, Tally

Sec. 105. There is appropriated from the General Fund to the Cumberland County Public Library System the sum of one hundred sixty-five thousand dollars ($165,000) for fiscal year 1983-84 for capital construction.

No Bill, Cannon Memorial YMCA Library Funds

Rep. Quinn

Sec. 106. There is appropriated from the General Fund to the Cannon Memorial YMCA Public Library in Kannapolis the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 as a grant-in-aid.

No Bill, Buncombe Folk Art Center Funds

Rep. Ramsey

Sec. 107. There is appropriated from the General Fund to the Buncombe County Folk Art Center the sum of twenty-five thousand dollars ($25,000) for fiscal year 1983-84 as a grant-in-aid.
No Bill, Starnes Auditorium Funds

Reps. Beam, Bumgardner, Mauney, Roberts

Sec. 108. There is appropriated from the General Fund to the Town of Cherryville the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to renovate Starnes Auditorium in Cherryville for use as a community center.
No Bill, Winston-Salem Urban Arts Funds

Rep. Kennedy

Sec. 109. There is appropriated from the General Fund to the Winston-Salem Arts Council the sum of five thousand dollars ($5,000) for fiscal year 1983-84 for Urban Arts.
No Bill, "Liberty Cart" Funds

Sec. 110. Of the funds appropriated to the Department of Cultural Resources in Section 2 of Chapter 761 of the 1983 Session Laws for Aid to Outdoor Drama and Aid to Professional Theatre, the sum of thirty-five thousand dollars ($35,000) shall be allocated to the Duplin Outdoor Drama Society, Inc., for fiscal year 1983-84 and fiscal year 1984-85 for production of the outdoor drama "The Liberty Cart: A Duplin Story." This item shall become part of the Department's continuation budget.
SB 81, Brushy Mtn. Apple Festival Funds

Sen. J. Edwards

Sec. 111. There is appropriated from the General Fund to the Brushy Mountain Ruritan Club the sum of ten thousand dollars ($10,000) for the fiscal year 1983-84 to sponsor the 1983 Brushy Mountain Apple Festival.
SB 85, Funds for Discovery Place

Sens. Tison, Jenkins, Lawing

Sec. 112. There is appropriated from the General Fund to Discovery Place in Charlotte the sum of two hundred fifty thousand dollars ($250,000) for fiscal year 1983-84 to provide operating expenses For Discovery Place.
SB 99, Fayetteville Branch Museum Funds

Sens. Tally, Rand

Sec. 113. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, the sum of one hundred thousand dollars ($100,000) for fiscal year 1983-84 to operate and maintain a service branch of the North Carolina Museum of History in Fayetteville.
SB 112, Newbold-White House Funds

Sen. Daniels

Sec. 114. There is appropriated from the General Fund to the Perquimans County Restoration Association for the 1983-84 fiscal year the sum of twenty-five thousand dollars ($25,000) to complete the security systems and interior plaster finishes in the Newbold-White House and to rehabilitate the David Newby House into a caretaker's dwelling for the Newbold-White House site, provided the sum of twenty-five thousand dollars ($25,000) is raised by the Association to match the grant-in-aid on a dollar-for-dollar basis.

SB 193, Blandwood Dependencies Funds

Sen. E. Edwards

Sec. 115. (a) There is appropriated from the General Fund to the John Motley Morehead Memorial Commission for the 1983-84 fiscal year the sum of eighty thousand dollars ($80,000) for the reconstruction of the two dependencies at Blandwood in Greensboro, provided the amount of eighty thousand dollars ($80,000) is raised by the Commission to match the grant-in-aid on a dollar-for-dollar basis with non-State funds.

(b) Non-State funds expended on the reconstruction of the dependencies before the effective date of this section shall qualify as non-State matching funds for the purposes of this section.

SB 195, Schiele Museum Funds

Sens. Marvin, Rauch, O. Harris

Sec. 116. There is appropriated from the General Fund to the Schiele Museum of Natural History and Planetarium, Inc., in Gastonia the sum of seventy-five thousand dollars ($75,000) for fiscal year 1983-84 for capital improvements and operating funds for the museum.

SB 205, Temple Theater Restoration Funds

Sen. Staton

Sec. 117. There is appropriated from the General Fund to the Temple Theater Company, Inc., the sum of seventy-five thousand dollars ($75,000) for fiscal year 1983-84 for the restoration of the Temple Theater in Sanford, provided a like amount is raised locally by the Company to match the grant-in-aid on a dollar-for-dollar basis.

SB 213, Funds for Person Place

Sen. Speed

Sec. 118. There is appropriated from the General Fund to the Person Place Preservation Society, Inc., the sum of twenty thousand dollars ($20,000) for the fiscal year 1983-84 for the phased rehabilitation of the Person Place in Franklin County to provide a facility for community use, provided a like amount is raised by the Preservation Society to match the grant-in-aid on a dollar-for-dollar basis.

SB 225, Rhododendron Festival Funds

Sen. J. Edwards

Sec. 119. There is appropriated from the General Fund to the North Carolina Rhododendron Festival Association, Inc., the sum of ten thousand

dollars ($10,000) for fiscal year 1983-84 to sponsor the Rhododendron Festival in Mitchell County.

SB 227, Old Salem Funds

Sen. Ward

Sec. 120. There is appropriated from the General Fund to Old Salem, Inc., the sum of twenty thousand dollars ($20,000) for fiscal year 1983-84 for the use of Old Salem in interpreting the history and culture of eighteenth century Piedmont North Carolina for school children and adult visitors.

SB 234, Andrew Jackson Memorial Funds

Sen. Plyler

Sec. 121. There is appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, the sum of twenty-six thousand five hundred dollars ($26,500) for fiscal year 1983-84 for continuing the researcher and other items necessary to make recommendations to the Andrew Jackson Memorial Committee for a proper memorial to Andrew Jackson.

SB 243, Union County Courthouse Funds

Sen. Plyler

Sec. 122. There is appropriated from the General Fund to the Union County Board of Commissioners the sum of seventy-five thousand dollars ($75,000) for the 1983-84 fiscal year to complete the interior and exterior restoration and renovation of the Old Union County Courthouse, provided a like amount is raised by Union County to match the grant-in-aid on a dollar-for-dollar basis.

SB 250, John C. Campbell Folk School Funds

Sen. R. Thomas

Sec. 123. There is appropriated from the General Fund to the John C. Campbell Folk School for the 1983-84 fiscal year the sum of sixty-two thousand dollars ($62,000) for the rehabilitation of Keith House and other historic structures at the School, provided a like amount is raised by the School to match the grant-in-aid on a dollar-for-dollar basis with non-State funds.

SB 264, American Dance Festival Funds

Sens. Royall, Hancock

Sec. 124. There is appropriated from the General Fund to the American Dance Festival in Durham for fiscal year 1983-84 the sum of twenty-five thousand dollars ($25,000) as a grant-in-aid.

SB 281, Old Richmond Courthouse Funds

Sen. Ward

Sec. 125. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1983-84 fiscal year the sum of fifteen thousand dollars ($15,000) to perform archaeological work at the Old Richmond Courthouse site in Forsyth County, provided the amount of fifteen thousand dollars ($15,000) is raised by Forsyth

County to match the grant-in-aid on a dollar-for-dollar basis with non-State funds. The value of the site shall qualify for the match.

SB 302, Haywood Hall Funds

Sen. Johnson

Sec. 126. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1983-84 fiscal year, the sum of eight thousand dollars ($8,000) to complete historical research on Haywood Hall in Raleigh, provided that an amount of six thousand dollars ($6,000) is raised for that purpose by the North Carolina Society of the Colonial Dames of America in addition to the two thousand dollars ($2,000) in donated professional services already received.

SB 313, St. Joseph's Historic Found. Funds

Sen. Royall

Sec. 127. There is appropriated from the General Fund to St. Joseph's Historic Foundation, Inc., for the 1983-84 fiscal year the sum of fifty thousand dollars ($50,000) for structural repairs, including roof and foundation work, on St. Joseph's A.M.E. Church and for energy improvements to the church, including the upgrading of mechanical systems, provided that the amount of fifty thousand dollars ($50,000) is raised by St. Joseph's Historic Foundation, Inc., to match the grant-in-aid on a dollar-for-dollar basis with non-State funds.

SB 351, Mill Prong Funds

Sen. Parnell

Sec. 128. There is appropriated from the General Fund to Mill Prong Preservation, Inc., for the 1983-84 fiscal year the sum of twenty-five thousand dollars ($25,000) to assist in the restoration of Mill Prong, provided a like amount is raised by Mill Prong Preservation, Inc., to match the grant-in-aid on a dollar-for-dollar basis.

SB 358, Historical Currituck Teacherage Funds

Sen. Daniels

Sec. 129. There is appropriated from the General Fund to the Currituck County Board of Education the sum of thirty thousand dollars ($30,000) for fiscal year 1983-84 to assist in the adaptive restoration of the Currituck Teacherage into administrative offices for the Currituck County Board of Education, provided a like amount is raised by the Board of Education to match the grant on a dollar-for-dollar basis.

SB 360, N. C. Dance Theater Funds

Sen. Ward

Sec. 130. There is appropriated from the General Fund to the North Carolina Dance Theater in Winston-Salem the sum of twenty-five thousand dollars ($25,000) for fiscal year 1983-1984 to be used as operating funds by the Theater.

SB 371, Grimes Mill/Hall House Funds

Sens. Davis, Childers

Sec. 131. There is appropriated from the General Fund to the Historic Salisbury Foundation, Inc. for the 1983-84 fiscal year the sum of thirty-eight thousand dollars ($38,000) for the continued restoration of the Grimes Mill and the Hall House, provided a like amount is raised by the Foundation to match the grant-in-aid on a dollar-for-dollar basis with non-State funds. Funds previously raised and expended for purchase and restoration of the Grimes Mill and the Hall House shall qualify as matching funds for purposes of this section.

SB 379, Carteret Courthouse Funds

Sen. J. Thomas

Sec. 132. There is appropriated from the General Fund to the Carteret County Board of Commissioners the sum of twenty-five thousand dollars ($25,000) for fiscal year 1983-84 for the rehabilitation of the Carteret County Courthouse, provided a like amount is raised by the Carteret County Board of Commissioners to match the grant-in-aid on a dollar-for-dollar basis.

SB 425, Spencer Shops Funds

Sens. Childers, Davis

Rep. Nash

Sec. 133. There is appropriated from the General Fund to the Department of Cultural Resources the sum of one hundred fifty thousand dollars ($150,000) for the 1983-84 fiscal year for the continued restoration and refurbishment of the Spencer Shops State Historic Site, and for equipment for its educational programs and the purchase of important historical artifacts.

SB 442, Hickory Arts Funds

Sens. Ballenger, Redman

Sec. 134. There is appropriated from the General Fund to the Hickory Arts Center, Inc., for fiscal year 1983-84 the sum of forty thousand dollars ($40,000) for the preservation of Claremont High School for use as a county arts center, provided the Center raises a like amount to match the grant-in-aid on a dollar-for-dollar basis with non-State funds.

SB 476, Funds for Town Creek Indian Mound

Sen. Jordan

Sec. 135. There is appropriated from the General Fund to the Department of Cultural Resources the sum of twenty-six thousand eight hundred fifty-six dollars ($26,856) for the 1983-84 fiscal year for a site assistant, a building guide, and operating expenses for the Town Creek Indian Mound State Historic Site.

SB 487, Museum of Albemarle Funds

Sen. Daniels

Sec. 136. There is appropriated from the General Fund to the Department of Cultural Resources the sum of twenty-four thousand two hundred twenty-seven dollars ($24,227) for the fiscal year 1983-84, seven thousand dollars ($7,000) of which is to be used to repave the parking lot adjacent to the Museum of the Albemarle and seventeen thousand two hundred

twenty-seven dollars ($17,227) of which is to be used to hire an exhibits designer for the museum.

SB 499, Gaston Art & History Museum Funds

Sens. Rauch, O. Harris

Sec. 137. There is appropriated from the General Fund to Gaston County the sum of one hundred thousand dollars ($100,000) for the 1983-84 fiscal year for capital improvements to the Gaston County Museum of Art and History in Dallas.

SB 500, Farris Park Funds

Sen. Duncan

Sec. 138. There is appropriated from the General Fund to Farris Memorial Park in western Rockingham County for fiscal year 1983-84 the sum of twenty-five thousand dollars ($25,000) for a Nature Science and Cultural Center for the Park.

SB 548, Thomas Wolfe Visitor Center Funds

Sen. Winner, Swain

Sec. 139. There is appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, for fiscal year 1983-84 the sum of twenty-five thousand dollars ($25,000) to convert the Bloomburg Garage in Asheville into a visitor center for the Thomas Wolfe Memorial State Historic Site, including the design of exhibits.

SB 559, Roanoke Island Center Funds

Sen. Harrington

Sec. 140. There is appropriated from the General Fund to the Roanoke Island Historical Association, Inc., the sum of one hundred thousand dollars ($100,000) for the 1983-84 fiscal year for the work required for the 400th anniversary by the Roanoke Island Historical Association, Inc.

SB 560, Durham Arts Center Funds

Sens. Royall, Hancock

Sec. 141. There is appropriated from the General Fund jointly to the Durham Arts Council and the Carolina Cinema Corporation of Durham for fiscal year 1983-84 the total sum of fifty thousand dollars ($50,000) in support of the Durham Community Arts Center Project. The appropriation shall be administered by the Durham Arts Council.

SB 561, Charlotte Hawkins Brown Site Funds

Sen. Martin

Sec. 142. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, the sum of sixty-seven thousand three hundred seventy-seven dollars ($67,377) for fiscal year 1983-84 to develop a plan to establish the Charlotte Hawkins Brown Memorial State Historic Site, which will focus on the history and contributions of Black citizens of this State and will include facilities for the collection, study, exhibition, and interpretation of Black cultural history in North Carolina. The

Division's plan shall include a recommendation of the property to be used for the site.

SB 575, International Folk Festival Funds

Sen. Hipps

Sec. 143. There is appropriated from the General Fund to the North Carolina International Folk Festival, Inc., the sum of eighty-five thousand dollars ($85,000) for fiscal year 1983-84 to sponsor the North Carolina International Folk Festival to be held in August, 1984, provided that the corporation matches the funds on a dollar-for-dollar basis.

SB 600, Cultural Res. Eastern Office Funds

Sen. White

Sec. 144. There is appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, the sum of sixty-nine thousand eight hundred sixteen dollars ($69,816) for the 1983-84 fiscal year for salaries, employee contributions, and work-related expenses for a historical sites specialist II, a records manager analyst, an archivist historian, and a secretary III for the Division's Eastern Office in Greenville. Funds for employee positions were appropriated for the 1980-81 fiscal year but the positions were not filled. These positions shall enable the Division to offer eastern North Carolina a variety of consulting and technical services in archival and records management, architectural and historical restoration, historic sites development, interpretation and education, museum interpretation and administration, and consulting services to the numerous local nonprofit historical organizations in the area.

SB 696, Martin County Players Funds

Sen. White

Sec. 145. There is appropriated from the General Fund to the Martin County Players the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to continue the cultural arts program in Martin County and northeastern North Carolina.

No Bill, Belle Chere Festival Funds

Sens. Swain, Winner

Sec. 146. There is appropriated from the General fund to the Belle Chere Festival in Asheville the sum of five thousand dollars ($5,000) for fiscal year 1983-84 to sponsor the annual Belle Chere street festival.

No Bill, Columbus Courthouse Funds

Sen. Soles

Sec. 147. There is appropriated from the General Fund to the Columbus County Board of Commissioners the sum of twenty-five thousand dollars ($25,000) to renovate the Columbus County Courthouse.

Part 2. Education

HB 446, Mitchell Comm. Coll.

Rep. Huskins

Sec. 148. There is appropriated from the General Fund to the Department of Community Colleges the sum of forty thousand ($40,000) for the 1983-84 fiscal year for Mitchell Community College for the purpose of repaying money borrowed from Wayne Community College.

HB 476, Ed. Resource Center

Reps. DeVane, Hasty, Locks

Sec. 149. There is appropriated from the General Fund to the Robeson County Board of Education the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 to add a Center for Science and Technology to the Robeson County Educational Resource Center and Planetarium.

HB 1120, Tobacco Research Funds

Rep. Lilley

Sec. 150. There is appropriated from the General Fund to The University of North Carolina Board of Governors for fiscal year 1983-84 the sum of thirty-five thousand dollars ($35,000) for a Pesticide and Fertilizer Storage Building at the Lower Coastal Plain Tobacco Research Station at Kinston.

HB 1195, Public Radio Grants

Reps. Barker, Hunt

Sec. 151. There is appropriated from the General Fund to the Department of Community Colleges the sum of sixty thousand seven hundred sixty dollars ($60,760) for the 1983-84 fiscal year for Craven Community College for operational costs, and the sum of twenty-six thousand eight hundred dollars ($26,800) for the 1983-84 fiscal year for Isothermal Community College for planning and facility grants to develop eastern and western public radio facilities. The home institutions shall make the facilities and broadcast time available to the community college institutions, universities and other public service institutions in the respective broadcasting service areas.

HB 1242, N. C. Flag in 4th Grade

Rep. Hunt

Sec. 152. There is appropriated from the General Fund to the Department of Public Education for fiscal year 1983-84 the sum of sixteen thousand nine hundred seventy-two dollars ($16,972) to provide a suitable size cloth North Carolina flag for each public fourth grade classroom in the State.

HB 1304, Davie Schools Asbestos Removal

Reps. Lambeth, Varner

Sec. 153. There is appropriated from the General Fund to Davie County the sum of thirty thousand dollars ($30,000) for the 1983-84 fiscal year to remove and replace asbestos ceilings in the Davie County public schools.

HB 1391, Nash Tech Funds

Reps. Barbee, Fenner, Matthews, Mavretic

Sec. 154. There is appropriated from the General Fund to the Department of Community Colleges for fiscal year 1983-84 the sum of one hundred seventy-five thousand dollars ($175,000) for Nash Technical College for construction of a technical training building.

No Bill, ESAM Project

Reps. Bob Etheridge, Wicker

Sec. 155. There is appropriated from the General Fund to the Harnett County Board of Education the sum of seventy-eight thousand dollars ($78,000) for the 1983-84 fiscal year for computer education in Harnett County in the Excellence in Science and Mathematics Program.

SB 674, Sampson Tech Funds

Sen. Warren

Sec. 156. There is appropriated from the General Fund to the Department of Community Colleges for fiscal year 1983-84 the sum of eighty thousand dollars ($80,000) for Sampson Technical College for construction of a building.

SB 677, Funds for Rockingham School Land

Sen. Duncan

Sec. 157. There is appropriated from the General Fund to the Rockingham Board of County Commissioners the sum of one hundred thousand dollars ($100,000) for fiscal year 1983-84 to purchase land in Western Rockingham County for a Western Rockingham County High School.

No Bill, Coastal Carolina Community College

Sen. Guy

Sec. 158. There is appropriated from the General Fund to the Department of Community Colleges, the sum of thirty-five thousand dollars ($35,000) for the 1983-84 fiscal year as a grant for Coastal Carolina Community College.

Part 3. Human Resources

HB 113, Disabled Care Project

Rep. Economos

Sec. 159. There is appropriated from the General Fund to the Division of Vocational Rehabilitation Services, Department of Human Resources, the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84, to establish and operate a demonstration personal care attendant project for severely physically disabled persons, in a cooperative effort with the Metrolina Independent Living Center. The purpose of this project is to develop services to facilitate disabled persons' independent living and working through interaction with trained personal care attendants.

The Secretary of the Department of Human Resources shall develop guidelines and promulgate rules to administer and monitor the project established pursuant to this act. The guidelines shall be developed and adjusted in consultation with the Metrolina Independent Living Center.

HB 159, Family Support Centers

Rep. Black

Sec. 160. There is appropriated from the General Fund to Family Support Center, Inc., the sum of thirty-five thousand dollars ($35,000) for the fiscal year 1983-84, for the purpose of preventing child abuse.
HB 287, Morganton Center-Hearing Impaired

Rep. Fletcher

Sec. 161. There is appropriated from the General Fund to the Department of Human Resources, Division of Vocational Rehabilitation Services, the sum of fifty thousand nine hundred seventy-seven dollars ($50,977) for fiscal year 1983-84 to establish and operate the Morganton Regional Community Service Center for the Hearing Impaired to be located in Morganton and to serve a 14-county area surrounding and including Burke County, with a hearing impaired population of approximately 30,333 persons.
HB 403, Autistic Children

Rep. Thomas

Sec. 162. There is appropriated from the General Fund to the Department of Human Resources the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 to cover operating expenses of the Autistic Group Home for Children in Stanly County.
HB 735, Hyde County ADAP

Rep. Chapin

Sec. 163. There is appropriated from the General Fund to the Division of Mental Health, Mental Retardation and Substance Abuse, Department of Human Resources, the sum of fifty thousand ($50,000) for fiscal year 1983-84 as start-up funds for the Hyde County Adult Developmental Activity Program, and for eighteen (18) Adult Developmental Activity Program (ADAP) slots at one hundred ninety-one dollars ($191.00) per month per slot.
HB 740, Matthews HELP Center

Rep. Black

Sec. 164. There is appropriated from the General Fund to the Matthews Community HELP Center in Matthews, North Carolina the sum of fifteen thousand dollars ($15,000) for the 1983-84 fiscal year for the purpose of assisting in making physical repairs to the building in order that services can continue to be provided to the public.
HB 777, Crime Reduction Program

Reps. Childress, Hauser, Kennedy, Tennille, Womble

Sec. 165. There is appropriated from the General Fund to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services, the sum of thirty-five thousand dollars ($35,000) for the 1983-84 fiscal year for the purpose of contracting for programs that reduce drug-related crime and criminal recidivism among substance-abusing offenders.
HB 871, Northeast Center for Human Development

Reps. Creecy, Gillam

Sec. 166. There is appropriated from the General Fund to the Northeast Center for Human Development in Lewiston-Woodville for fiscal year 1983-84 the sum of five thousand dollars ($5,000) to establish a day-care center and senior citizen center.

HB 968, Juvenile Center Chapel

Reps. Colton, N.J. Crawford, Greenwood, Nesbitt
Sens. Winner, Swain

Sec. 167. There is appropriated from the General Fund to the Division of Youth Services, Department of Human Resources the sum of two hundred thousand dollars ($200,000) for the 1983-84 fiscal year to build a chapel at the Juvenile Evaluation Center.

HB 1051, Carteret, Onslow Elderly Screening

Rep. Bruce Ethridge

Sec. 168. There is appropriated from the General Fund the sum of five thousand dollars ($5,000) for fiscal year 1983-84 to the Carteret County Board of Commissioners, and the sum of five thousand dollars ($5,000) for fiscal year 1983-84 to the Onslow County Board of Commissioners, to operate comprehensive screening programs for the elderly.

HB 1082, Person Elderly Screening

Reps. Watkins, Church, J.W. Crawford

Sec. 169. There is appropriated from the General Fund to the Person County Board of Commissioners the sum of fifteen thousand dollars ($15,000) for fiscal year 1983-84 to develop a comprehensive screening program for the elderly.

HB 1110, Holy Angels Nursery Funds

Reps. Bumgardner, Beam, Mauney, Roberts
Sen. Rauch

Sec. 170. There is appropriated from the General Fund to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services, the sum of sixty thousand dollars ($60,000) for fiscal year 1983-84 to increase the number of specialized community residential care slots at Holy Angels Nursery.

HB 1200, Mecklenburg Crime Reduction

Rep. Helms

Sec. 171. There is appropriated from the General Fund to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services, the sum of fifty thousand dollars ($50,000) for the 1983-84 fiscal year for the purpose of contracting for programs in Mecklenburg County that reduce drug-related crime and criminal recidivism among substance-abusing offenders.

HB 1230, Wake Elderly Screening

Reps. Adams, Blue, Fussell, Musselwhite, Sparrow, Stamey

Sec. 172. There is appropriated from the General Fund to the Wake County Board of Commissioners the sum of forty thousand dollars ($40,000) for fiscal year 1983-84 for the comprehensive screening program for the elderly.
HB 1265, Tammy Lynn Foundation

Reps. Adams, Blue, Fussell, Musselwhite, Sparrow, Stamey

Sec. 173. There is appropriated from the General Fund to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services, the sum of one hundred thousand dollars ($100,000) for fiscal year 1983-84 to provide funds to the Tammy Lynn Memorial Foundation, Inc., as start-up money for an intermediate care facility for the mentally retarded at the Tammy Lynn Center.
HB 1291, Learning Together

Reps. Adams, Blue, Fussell, Musselwhite, Sparrow, Stamey

Sec. 174. There is appropriated from the General Fund to Learning Together, Inc., of Wake County the sum of seventy thousand dollars ($70,000) for fiscal year 1983-84, to provide operating funds for Learning Together, Inc.
HB 1300, Hayesville Water System

Rep. Enloe

Sec. 175. There is appropriated from the General Fund to the Department of Human Resources for fiscal year 1983-84 the sum of thirty thousand dollars ($30,000) for a grant to the Town of Hayesville to supplement funds for a water supply system.
HB 1323, Chatham County Crisis

Rep. Hackney

Sec. 176. There is appropriated from the General Fund to the Family Violence and Rape Crisis Volunteers in Chatham County, Incorporated, the sum of fifteen thousand dollars ($15,000) for the fiscal year 1983-84 for the purpose of continuing its crisis services to victims of spouse and sexual abuse in Chatham County.
HB 1324, Chatham Sheltered Workshop

Rep. Barnes
Sens. Walker, Hunt

Sec. 177. There is appropriated from the General Fund to Chatham Trades, Incorporated, the sum of twenty-five thousand dollars ($25,000) for the fiscal year 1983-84 to continue to provide a sheltered workshop environment for disabled residents of Chatham County.
HB 1406, Mecklenburg Youth Council

Rep. Berry

Sec. 178. There is appropriated from the General Fund to Charlotte Mecklenburg Youth Council, Inc., the sum of forty-five thousand dollars

($45,000) for fiscal year 1983-84, to provide operating expenses for the Charlotte Mecklenburg Youth Council.

HB 1407, Mecklenburg Minority Affairs Office

Rep. Berry

Sec. 179. There is appropriated from the General Fund to the Mecklenburg Board of County Commissioners the sum of five thousand dollars ($5,000) for fiscal year 1983-84 to establish an Office of Minority Affairs.

HB 1427, Children's Center Vocational

Rep. Lutz

Sec. 180. There is appropriated from the General Fund to the Children's Center in Shelby, Cleveland County, the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to equip a vocational center to teach vocational skills to handicapped students.

HB 1452, Robeson Co. Community Center

Reps. DeVane, Hasty, Locks

Sec. 181. There is appropriated from the General Fund to the Robeson County Church and Community Center Inc., the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to provide five thousand dollars ($5,000) each for the Center's Senior Citizens Program and for the Center's Emergency Counseling and Domestic Violence Staff.

No Bill, Alleghany Sheltered Workshop

Rep. Gentry

Sec. 182. There is appropriated from the General Fund to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services, the sum of twenty thousand dollars ($20,000) for fiscal year 1983-84 to create ADAP slots for the Alleghany County Sheltered Workshop.

No Bill, HELP, Inc.

Rep. Tyndall

Sec. 183. There is appropriated from the General Fund to HELP, Inc., the sum of fifteen thousand dollars ($15,000) for fiscal year 1983-84 as a grant-in-aid.

No Bill, Onslow County Area Mental Health Funds

Rep. Tyndall

Sec. 184. There is appropriated from the General Fund to the Onslow County Area Mental Health Program the sum of fifteen thousand dollars ($15,000) for fiscal year 1983-84 as a grant-in-aid.

No Bill, Urban Ministries Center, Inc.

Rep. Pulley

Sec. 185. There is appropriated from the General Fund to Urban Ministries Center, Inc., the sum of twenty-five thousand dollars ($25,000) for fiscal year 1983-84 as a grant-in-aid.

No Bill, Durham Rescue Mission, Inc.

Rep. Pulley

Sec. 186. There is appropriated from the General Fund to Durham Rescue Mission, Inc., the sum of twenty-five thousand dollars ($25,000) for fiscal year 1983-84 as a grant-in-aid.

No Bill, Davidson Alcoholic Care

Rep. Lambeth, Varner

Sec. 187. There is appropriated from the General Fund to Davidson Alcoholic Care the sum of fifteen thousand dollars ($15,000) for fiscal year 1983-84 as a grant-in-aid.

No Bill, Rainbow House for Terminally Ill Children

Rep. Womble

Sec. 188. There is appropriated from the General Fund to Rainbow House for Terminally Ill Children the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 as a grant-in-aid.

No Bill, Day Care Funds For Madison County

Rep. Ramsey

Sec. 189. There is appropriated from the General Fund to the Madison County Board of Commissioners the sum of forty thousand dollars ($40,000) for fiscal year 1983-84 for the purpose of providing adult or child day care programs.

No Bill, Youth Career Development Project

Rep. Hauser

Sec. 190. There is appropriated from the General Fund to the Winston-Salem Urban League for fiscal year 1983-84 the sum of five thousand dollars ($5,000) for the Youth Career Development Project.

No Bill, Downtown Senior Center

Rep. Hauser

Sec. 191. There is appropriated from the General Fund to the Winston-Salem Urban League for fiscal year 1983-84 the sum of five thousand dollars ($5,000) for the Downtown Senior Center.

No Bill, Displaced Homemakers Program

Rep. Hauser

Sec. 192. There is appropriated from the General Fund to the Winston-Salem Urban League for fiscal year 1983-84 the sum of two thousand five hundred dollars ($2,500) for the Displaced Homemakers Program.

No Bill, YMCA Funds

Rep. Hauser

Sec. 193. There is appropriated from the General Fund to the Patterson Avenue YMCA for fiscal year 1983-84 the sum of ten thousand dollars ($10,000) to provide five thousand dollars ($5,000) each to the Comprehensive Youth Development Program and the YMCA Incentive Program.
No Bill, YMCA Youth Development

Rep. Womble

Sec. 194. There is appropriated from the General Fund to the Patterson Avenue YMCA in Winston-Salem the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 for the Youth Development Project.
No Bill, Project New Start and Day Camp Handicapped

Rep. Kennedy

Sec. 195. There is appropriated from the General Fund to the Winston-Salem YWCA the sum of five thousand dollars ($5,000) for fiscal year 1983-84 for the Project New Start program and the sum of five thousand dollars ($5,000) for fiscal year 1983-84 for the Day Camp Handicapped Program.
No Bill, Experiment in Self Reliance

Rep. Kennedy

Sec. 196. There is appropriated from the General Fund for fiscal year 1983-84 to Experiment in Self Reliance Inc., the sum of five thousand dollars ($5,000), two thousand five hundred dollars ($2,500) each for the Tutorial Program and the Senior Citizens Project.
SB 212, Establish Institute of Medicine

Sen. O. Harris

Sec. 197. The persons appointed under the provisions of this section are declared to be a body politic and corporate under the name and style of the North Carolina Institute of Medicine, and by that name may sue and be sued, make and use a corporate seal and alter the same at pleasure, contract and be contracted with, and shall have and enjoy all the rights and privileges necessary for the purposes of this section. The corporation shall have perpetual succession.

The purposes for which the corporation is organized are to:

(1) Be concerned with the health of the people of North Carolina;

(2) Monitor and study health matters;

(3) Respond authoritatively when found advisable;

(4) Respond to requests from outside sources for analysis and advice when this will aid in forming a basis for health policy decisions.

The 18 initial members of the North Carolina Institute of Medicine shall be appointed by the Governor.

The initial members are authorized, prior to expanding the membership, to establish bylaws, to procure facilities, employ a director and staff, to solicit, receive and administer funds in the name of the North Carolina Institute of Medicine, and carry out other activities necessary to fulfill the purposes of this section.

The members shall select with the approval of the Governor additional members, so that the total membership will not exceed 100. The membership should be distinguished and influential leaders from the major health professions, the hospital industry, the health insurance industry, State and county government and other political units, education, business and industry, the universities, and the university medical centers.

The North Carolina Institute of Medicine may receive and administer funds from private sources, foundations, State and county governments, federal agencies, and professional organizations.

The director and staff of the North Carolina Institute of Medicine should be chosen from those well established in the field of health promotion and medical care.

For the purposes of Chapter 55A of the General Statutes, the members appointed under this section shall be considered the initial board of directors.

The North Carolina Institute of Medicine is declared to be under the patronage and control of the State.

The General Assembly reserves the right to alter, amend, or repeal this section.

There is appropriated from the General Fund to the North Carolina Institute of Medicine for fiscal year 1983-84 the sum of twenty-five thousand dollars ($25,000) to implement this section, provided that the North Carolina Institute of Medicine raises two hundred thousand dollars ($200,000) in non-State funds.

SB 612, Autistic Adult Group Home

Sens. Walker, Woodard

Sec. 198. Effective January 1, 1984, there is appropriated from the General Fund the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services. These funds shall be used to start up and operate a group home for high functioning autistic adults.

SB 632, ACCEPT Fund

Sens. Walker, Hunt

Sec. 199. There is appropriated from the General Fund to the Advocacy Center for Children's Education and Parent Training the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to provide funds for training parents and professionals in skills required by handicapped children.

SB 672, Mountain Youth Resources

Sen. Hipps

Sec. 200. There is appropriated from the General Fund to the Department of Human Resources for fiscal year 1983-84 the sum of ten thousand dollars ($10,000) for Mountain Youth Resources, Inc., to maintain its Hawthorn Heights program to provide temporary residential care to Western North Carolina children.

SB 678, School for Deaf Equipment Funds

Sen. Alford

Sec. 201. There is appropriated from the General Fund to the Eastern North Carolina School for the Deaf in Wilson the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 for equipment for the new vocational building at the school.

SB 683, Orange County Sheltered Workshop

Sens. Hunt, Walker

Sec. 202. There is appropriated from the General Fund to Orange Industries the sum of ten thousand dollars ($10,000) for the fiscal year 1983-84 to continue to provide a sheltered workshop environment for disabled residents of Orange County.

Part 4. General Government.

HB 269, Homeownership Assistance Fund

Reps. Cook, Brannan.

Sec. 203. (a) Chapter 122A of the General Statutes is amended by adding a new section to read:

"§ 122A-5.6. *Homeownership Assistance Fund authorized; authority.*—The North Carolina Housing Finance Agency is authorized to establish a Homeownership Assistance Fund (hereinafter referred to as 'the Fund') to assist families of low and moderate income in the purchase of affordable residential housing. To achieve this purpose, the Agency may use the Fund to provide additional security for eligible loans, to subsidize down payments, principal payments and interest payments, and to provide any type of mortgage assistance the Agency deems necessary. The Fund shall operate as a revolving fund. The Agency shall adopt rules for the operation and use of the Fund. These funds shall be used for people who otherwise would be unable to receive subsidized loans from the Housing Finance Agency."

(b) Of the two million dollars ($2,000,000) appropriated over the 1983-85 biennium to the Housing Finance Agency in Section 2 of Chapter 761 of the 1983 Session Laws, the Housing Finance Agency may use the amount of funds it deems necessary for the Homeownership Assistance Fund authorized in G.S. 122A-5.6. The Fund shall be a pilot program.

HB 657, Protect Swift Creek Twp.

Reps. Adams, Blue, Fussell, Musselwhite, Sparrow, Stamey

Sec. 204. (a) The Department of Natural Resources and Community Development, Division of Community Assistance, is directed to prepare a study to address basic issues surrounding the future growth and development of Swift Creek Township, Wake County.

(b) This study, to be titled "Environmental and Incorporation Feasibility Analysis of Swift Creek Township", will include, but not be limited to, an analysis of physical, economic, and demographic characteristics of Swift Creek Township.

(c) Key issues to be addressed will include alternatives for appropriate management of growth and development as well as appropriate jurisdictional responsibilities for guiding future growth and development in Swift Creek Township.

(d) In carrying out this study, the Division of Community Assistance will coordinate with other State and local governmental agencies as appropriate.

(e) The Division of Community Assistance shall complete and submit the study to the Wake County legislative delegation not later than 30 days prior to the opening of the 1984 short session of the General Assembly.

HB 685, Establish Farmworker Council

Rep. Fulcher

Sec. 205. (a) Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 23.

"North Carolina Farmworker Council.

"§ 143B-426.30. *North Carolina Farmworker Council; creation; membership; meetings.*—(a) There is established within the Department of Administration the North Carolina Farmworker Council.

(b) The North Carolina Farmworker Council shall consist of 11 members as follows:

(1) Four shall be appointed by the Governor.

(2) Two shall be appointed by the Speaker of the House of Representatives.

(3) Two shall be appointed by the Lieutenant Governor.

(4) The Secretary of the Department of Human Resources or the Deputy Secretary of the Department if designated by the Secretary shall serve ex officio.

(5) The Commissioner of Labor or the Deputy Commissioner of the Department if designated by the Commissioner shall serve ex officio.

(6) The Commissioner of Agriculture or the Deputy Commissioner of the Department if designated by the Commissioner shall serve ex officio.

(c) Vacancies in membership of the Council shall be filled by the original appointing authority for the remainder of the unexpired term.

(d) The Governor shall appoint the chairman of the Council. At its first meeting the Council shall select a vice-chairman from its membership and a secretary. The chairman shall preside at all meetings and in his absence the vice-chairman shall act as chairman.

(e) A majority of the membership shall constitute a quorum.

(f) The initial meeting of the Council shall be called by the Governor. Subsequent meetings shall be held upon the call of the chairman or upon the written request of four members. The Council shall meet at least four times per year.

(g) Council members who are members of the General Assembly shall receive subsistence and travel allowances at the rate set forth in G.S. 120-3.1. Council members and ex officio members who are employees of the State of North Carolina shall receive travel allowances at the rate set forth in G.S. 138-6. All other Council members shall receive per diem, subsistence and travel expenses at the rate set forth in G.S. 138-5.

(h) The Department of Administration shall provide necessary clerical equipment and administrative services to the Council, provided the Council may hire and discharge its own staff if it so desires.

"§ 143B-426.31. *North Carolina Farmworker Council; duties; annual report.*—(a) The Council shall have the following duties:

(1) Study and evaluate the existing system of delivery of services to farmworkers.

(2) Seek effective methods for the improvement of living, working, and related problems affecting farmworkers.

(3) Recommend a mechanism for coordinating all farmworkers' activities in the State.

(4) Identify and make recommendations to alleviate gaps and duplication of services or programs.

(5) Propose and review legislation relating to farmworkers.

(b) By February 1 of each year, the Council shall make a report describing its activities for the preceding calendar year to the Governor and General Assembly."

(b) There is appropriated from the General Fund to the Department of Administration for fiscal year 1983-84 the sum of ten thousand dollars ($10,000) to implement the North Carolina Farmworker Council.

HB 750, Western N. C. Public Radio Funds

Reps. Colton, N.J. Crawford, Greenwood, Nesbitt

Sec. 206. There is appropriated from the General Fund to the Agency for Public Telecommunications in the Department of Administration as a grant to Western North Carolina Public Radio, Inc., the sum of forty-one thousand five hundred dollars ($41,500) for fiscal year 1983-84, to provide operating funds to the radio station WUNF-FM for one year, provided that an equal amount is raised by the Western North Carolina Public Radio, Inc.

HB 859, New Hanover Public Radio

Rep. Payne

Sec. 207. There is appropriated from the General Fund to the Department of Administration, Agency for Public Telecommunications, for the fiscal year 1983-84, the sum of fifty thousand dollars ($50,000) for the Wilmington Friends of Public Radio, Inc., for the construction of a public radio station in New Hanover County, North Carolina, provided that a like amount is raised by local sources to match these funds on a dollar-for-dollar basis. This shall be a one time, nonrecurring grant-in-aid. The Wilmington Friends of Public Radio, Inc., may apply to the agency from time to time, for the funds appropriated under this act, as it raises the matching funds. Any appropriated money not matched shall revert to the General Fund.

HB 1428, Garland Rec. Dept.

Rep. Bowen

Sec. 208. There is appropriated from the General Fund to the Garland Recreation Department, Garland, Sampson County the sum of twelve thousand dollars ($12,000) for the fiscal year 1983-84 for the purchase of equipment.

HB 1429, Union Rescue Squad

Rep. Bowen

Sec. 209. There is appropriated from the General Fund to the Union Rescue Squad of Willard, Pender County the sum of twelve thousand dollars ($12,000) for the fiscal year 1983-84 for the purchase of equipment.
HB 1457, Teen Ctr. Youth Funds

Rep. Grimsley

Sec. 210. There is appropriated from the General Fund to Teen Life Center, Inc., of Greensboro, the sum of ten thousand dollars ($10,000) for fiscal year 1983-84, to provide facility expenses for a junior and senior high school youth center in Greensboro.
No Bill, Women in Non-Traditional Jobs

Rep. Hauser

Sec. 211. There is appropriated from the General Fund to the Winston-Salem Urban League for fiscal year 1983-84 the sum of two thousand five hundred dollars ($2,500) for the women in non-traditional jobs program.
No Bill, Gladiator Boxing Club

Rep. Kennedy

Sec. 212. There is appropriated from the General Fund to the Experiment in Self-Reliance, Inc., the sum of five thousand dollars ($5,000) for fiscal year 1983-84 for the Gladiator Boxing Club.
No Bill, Senior Citizens Pk.

Reps. Watkins, Church, J.W. Crawford

Sec. 213. There is appropriated from the General Fund to the Board of County Commissioners of Person County for fiscal year 1983-84 the sum of five thousand dollars ($5,000) for the Senior Citizens Park.
No Bill, New Clemmons Fire Dept.

Rep. Womble

Sec. 214. There is appropriated from the General Fund to Forsyth County for fiscal year 1983-84 the sum of ten thousand dollars ($10,000) to aid in the construction of the new Clemmons Fire Department building.
SB 334, Garner Vol. Fire Dept. Funds

Sen. Woodard

Sec. 215. There is appropriated from the General Fund to Garner Volunteer Fire Department, Inc., the sum of five thousand dollars ($5,000) for fiscal year 1983-84 to help defray the cost of providing adequate fire protection to all the State property within Garner's Fire District.
SB 652, Tribal Training Funds

Sen. Parnell

Sec. 216. There is appropriated from the General Fund to the Department of Administration for fiscal year 1983-84 the sum of twenty-five thousand dollars ($25,000) for the Tribal Economic Development Project of the Commission of Indian Affairs.

Miscellaneous Provisions

Sec. 217. (A) Of the fifteen million dollars ($15,000,000) appropriated to the Office of State Budget and Management for fiscal year 1983-84 in Section 3.1 of Chapter 757, Session Laws of 1983 as a reserve for repairs and renovations up to the sum of two hundred fifty thousand dollars ($250,000) shall be used for the purpose of renovating the Seaboard Coast Line Building as State office space. The Department of Administration must submit within 60 days of ratification of this act plans for the renovation to the Joint Legislative Commission on Governmental Operations for their review.

(B) There is appropriated from the General Fund to the Department of Administration for fiscal year 1983-84 the sum of two hundred thousand dollars ($200,000) to be placed in the reserve created by Chapter 957 of the 1979 Session Laws for the State office building in Fayetteville.

(C) Effective July 15, 1983, Section 141 of Chapter 761 of the 1983 Session Laws is amended by rewriting the last sentence to read:

"Any driver education program cash balance remaining in the special fund Code 23520 shall be liquidated to satisfy the requirements of G.S. 20-88.1.

(D) Effective July 15, 1983, Sections 173 and 174 of Chapter 761 of the 1983 Session Laws are amended by deleting the phrase "G.S. 143-348(8)i.7a." each time it appears and substituting the phrase "G.S. 143-341(8)i.7a."

(E) Effective July 15, 1983, Section 140 of Chapter 761 of the 1983 Session Laws is amended by rewriting subsection (b) to read:

"(b) This section shall become effective August 1, 1983."

(F) G.S. 14-309.7(c) as enacted by Chapter 896 of the 1983 Session Laws is rewritten to read:

"(c) In order for an exempt organization to have a member familiar with the operation of bingo present on the premises at all times when bingo is being played and for this member to be responsible for the receiving, reporting and depositing of all revenues received, the exempt organization may pay one member for conducting a bingo game. Such pay shall be on an hourly basis only for the time bingo is actually being played and shall not exceed one and one-half times the existing minimum wage in North Carolina. The member paid under this provision shall be a member in good standing of the exempt organization for at least one year and shall not be the lessor or an employee or agent of the lessor. No other person may be compensated for conducting a raffle or bingo game from funds derived from any activities occurring in, or simultaneously with, the playing of bingo, including funds derived from concessions. An exempt organization shall not contract with any person for the purpose of conducting a raffle or bingo game. Except as provided in subsection (e) of this section, an exempt organization may hold a bingo game only in or on property owned (either legally or equitably and the buildings must be of a permanent nature with approved plumbing for bathrooms and not movable or of a temporary nature such as a tent or lean-to) or leased by the organization from the owner or bona fide property management agent (no subleasing is permitted) at a total monthly rental in an amount not to exceed one and one-quarter percent (1 1/4%) of the total assessed ad valorem tax value of the portion of the building actually used for the bingo games or raffles and the land value on which the building is located (not to exceed two acres) for all activities conducted therein including the playing of bingo for a period of not less than one year and actually

occupied and used by that organization on a regular basis for purposes other than bingo for at least six months before the game; and all equipment used by the exempt organization in conducting the bingo game must be owned by the organization. Unless the exempt organization leases the property in accordance with this subsection, an exempt organization may conduct a bingo game only in or on property that is exempt from property taxes levied under Subchapter II of Chapter 105 of the General Statutes, or that is classified and not subject to any property taxes levied under Subchapter II of Chapter 105 of the General Statutes. It shall be unlawful for any person to operate beach bingo games at a location which is being used by any licensed exempt organization for the purpose of conducting bingo games."

(G) The third sentence of G.S. 14-309.8 as enacted by Chapter 896 of the 1983 Session Laws is rewritten to read:

"No more than two sessions of bingo shall be operated or conducted in any one building, hall or structure during any one calendar week and if two sessions are held, they must be held by the same exempt organization."

(H) Chapter 120 of the General Statutes is amended by adding a new section to read:

"§ 120-32.5. *Leave for Temporary Employees.*—Temporary part-time or full-time employees of the General Assembly who have four years of aggregate employment with the General Assembly (temporary or permanent) shall receive the same holidays, vacation leave, and sick leave as permanent part-time or full-time employees of the General Assembly respectively, or as may be determined by the Legislative Services Commission."

This provision shall become effective with respect to employment on or after January 1, 1983, except that service prior to that date shall be credited toward the four years of aggregate employment required.

(I) The Board of Governors of The University of North Carolina shall undertake no organizational restructuring that would impair the separate identity of the Department of Public Health Nursing within the School of Public Health until June 30, 1985, or until the Board of Governors submits its recommendation for restructuring the School of Public Health Nursing to the General Assembly while it is in session.

(J) Effective July 15, 1983, Section 199 of Chapter 761 of the 1983 Session Laws is amended by deleting the number "13,572" and substituting the number "13,512".

(K) Sections 22, 23, and 24 of Chapter 761 of the 1983 Session Laws are effective July 1, 1983.

(L) Section 238 of Chapter 761 of the 1983 Session Laws is amended by rewriting G.S. 120-4.9(1) and (2) as they appear in Chapter 761 to read:

"(1) For terms beginning with the 1975 General Assembly, seven percent (7%) of the highest legislative compensation at the time of purchase plus an administrative fee to be paid in lump sum."

"(2) For terms beginning prior to the 1975 General Assembly, five percent (5%) of the highest legislative compensation at the time of purchase plus an administrative fee to be paid in lump sum."

(M) Section 238 of Chapter 761 of the 1983 Session Laws is further amended by rewriting G.S. 120-4.10 as it appears in Chapter 761 to read:

"§ 120-4.10. *Repayment of Contributions.*—Repayment of contributions withdrawn from the Legislative Retirement Fund shall be at the rate of seven

percent (7%) of the highest monthly compenastion received as a legislator at the time of purchase for each month of creditable service restored plus an administrative fee to be paid in lump sum."

(N) A new section is added to Chapter 761 of the 1983 Session Laws to read:

"§ 19.1. G.S. 143-7 is amended by addng the following new paragraph:

"The Office of the Governor, and the General Assembly, any of its committees and subcommittees, the Legislative Research Commission, the Legislative Services Commission and any other commissions in the legislative branch are exempt from G.S. 147-58(17)." This provision is effective only if House Bill 517, 1983 Session is not enacted by July 23, 1983.

(O) Section 3 of Chapter 613 of the 1983 Session Laws is amended by deleting the phrase "October 1, 1983" and substituting the phrase "July 15, 1983".

(P) Section 60(1)(c) of Chapter 761 of the 1983 Session Laws is rewritten to read:

"(c) *Mental and Specialty Hospitals*—Allowable cost.

"(c1) *Skilled Nursing Facilities and Intermediate Care Facilities*—As prescribed under the State Plan for reimbursing long-term care facilities. Skilled nursing facility participation in the medicare program is a condition of participation in the North Carolina Medicaid skill nursing facility program.

(Q) Chapter 876 of the 1983 Session Laws is amended by deleting the phrase "Mental Health, Mental Retardation and Substance Abuse" and substituting the word "Social".

(R) Section 225 of Chapter 761 of the 1983 Session Laws is repealed effective June 1, 1984.

Part 5. Justice and Public Safety

HB 812, Guilford OAR Funds

Rep. Gist

Sec. 218. There is appropriated from the General Fund to Offender Aid and Restoration of Guilford County for fiscal year 1983-84 the sum of forty-five thousand dollars ($45,000) to add one counselor and one administrative position.

HB 1333, Police/Community Relations Training

Rep. Spaulding

Sec. 219. There is appropriated from the General Fund to the Department of Administration for fiscal year 1983-84 the sum of twenty-five thousand dollars ($25,000) for the Human Relation Council's Police/Community Relations Training Program.

No Bill, "Operation Get Smart" Funds

Rep. Hightower
Sen. Woodard

Sec. 220. There is appropriated from the General Fund to the Department of Crime Control and Public Safety for fiscal year 1983-84 the sum of fifty thousand dollars ($50,000) to continue the program established under Chapter 1339 of the 1981 Session Laws.

No Bill, Greensboro Crime Prevention

Rep. Gist

Sec. 221. There is appropriated from the General Fund t the Southeast Greensboro Council on Crime and Delinquency for fiscal year 1983-84 the sum of five thousand dollars ($5,000) to assist the Council in its work.

SB 557, Robeson Prerelease Center Funds

Sen. Parnell

Sec. 222. There is appropriated from the General Fund to the Department of Correction for fiscal year 1983-84 the sum of twenty-five thousand dollars ($25,000) to establish a prerelease center in Robeson County.

Part 6. Natural and Economic Resources.

HB 216, Roanoke River Boat Funds

Reps. Creecy, Gillam

Sec. 223. There is appropriated from the General Fund to the Wildlife Resources Commission for fiscal year 1983-84 the sum of one thousand dollars ($1,000) for aid in construction of a boat ramp on the Roanoke River at the Town of Williamston in Martin County near the U.S. 13-17 bridge between Martin and Bertie Counties.

HB 218, Cashie River Boat Access

Reps. Creecy, Gillam

Sec. 224. There is appropriated from the General Fund to the Wildlife Resources Commission for fiscal year 1983-84 the sum of one thousand dollars ($1,000) for aid in establishment of a public boating access area on the Cashie River near the Town of Windsor.

HB 404, Town of Hazelwood Approp.

Rep. Beall

Sec. 225. There is appropriated from the General Fund to the Town of Hazelwood the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to determine why approximately fifty percent (50%) of the water purchased by Hazelwood from Waynesville is lost before it reaches consumers in Hazelwood.

HB 496, Farmers Mkt. - Charlotte

Rep. Foster

Sec. 226. There is appropriated from the General Fund to the Department of Agriculture the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 for the purpose of constructing facilities at the Charlotte Regional Farmer's Market.

HB 679, Approp. - Stanly Agri. Bldg.

Rep. Slaughter

Sec. 227. There is appropriated from the General Fund to the County of Stanly the sum of forty thousand dollars ($40,000) for the fiscal year 1983-84 for

the construction of a learning laboratory to provide facilities for demonstrations and development of horticultural, livestock, forestry, and field crop aspects of agriculture as well as other home economic services.

HB 703, Fort Macon Funds

Rep. Fulcher

Sec. 228. There is appropriated from the General Fund to the Department of Natural Resources and Community Development for fiscal year 1983-84 the sum of seventeen thousand five hundred dollars ($17,500) for a tractor, front-end loader, bushhog, and copying machine for Fort Macon State Park, and the sum of six thousand four hundred forty dollars ($6,440) for other equipment for Fort Macon State Park.

HB 841, Approp. Henderson Traffic Control

Reps. Watkins, Church, J.W. Crawford

Sec. 229. There is appropriated from the General Fund to the City of Henderson the sum of thirty-seven thousand dollars ($37,000) for the fiscal year 1983-84 for the replacement of the traffic control system along Chestnut Street in Henderson.

HB 889, Hampton Mariner's Museum Funds

Rep. Fulcher

SB 380, Hampton Mariner's Museum Funds

Sen. J. Thomas

Sec. 230. There is appropriated from the General Fund to the Department of Agriculture the sum of forty-six thousand sixty dollars ($46,060) for fiscal year 1983-84, for use by the Hampton Mariner's Museum to continue its maritime history program and wooden boat building/history course. The funds shall be used to assist in continuing the position of Curator of Maritime Research and to assist in providing a Curator of Boat Building Technology.

HB 908, Western N.C. Development Funds

Reps. Colton, N.J. Crawford, Greenwood, Nesbitt

Sec. 231. There is appropriated from the General Fund to the Western North Carolina Development Association, Inc., the sum of twenty thousand dollars ($20,000) for fiscal year 1983-84 to support the programs and activities of the Association.

HB 931, Pilot Mountain Recreational Park

Rep. Diamont

Sec. 232. There is appropriated from the General Fund to the Pilot Mountain Foundation, Inc., the sum of thirty-five thousand dollars ($35,000) for the 1983-84 fiscal year for a recreational park in Pilot Mountain. These funds shall be matched on a one-to-one basis.

HB 981, Forestry Service Funds

Reps. DeVane, Hasty, Locks

Sec. 233. There is appropriated from the General Fund to the Department of Natural Resources and Community Development for fiscal year

1983-84 the sum of twenty thousand dollars ($20,000) to construct a building in Scotland County to provide maintenance and storage of fire fighting equipment for the Forest Resources Division.

HB 998, Opportunities Indus. Center Funds

Rep. Fenner

Sec. 234. There is appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 for the Opportunities Industrialization Centers in Rocky Mount and Wilson to support the programs of the Centers. One half of the amount appropriated shall be used for the Center in Rocky Mount, and one half shall be used for the Center in Wilson.

HB 1011, Seven Springs Boat Access

Rep. Lancaster

Sec. 235. There is appropriated from the General Fund to the Wildlife Resources Commission for fiscal year 1983-84 the sum of six thousand dollars ($6,000) to provide a boating access area on the Neuse River at Seven Springs in Wayne County.

HB 1159, Lincoln Hwy. Ptr. Funds

Reps. Bumgardner, Beam, Mauney, Roberts

Sec. 236. There is appropriated from the Highway Fund to the Department of Crime Control and Public Safety for fiscal year 1983-84 the sum of two hundred thousand dollars ($200,000) to construct a Highway Patrol and Drivers' License Examiners Station in Lincoln County.

HB 1172, Brunswick Boat Ramp Funds

Rep. Rabon

Sec. 237. There is appropriated from the General Fund to the Department of Natural Resources and Community Development, Wildlife Resources Commission, for fiscal year 1983-84 the sum of seventeen thousand dollars ($17,000) to build boat ramps in Brunswick County.

HB 1216, Yancey Development Funds

Rep. Hunter

Sens. Swain, Winner

Sec. 238. (a) There is appropriated from the General Fund to the Yancey County Economic Development Commission for the fiscal year 1983-84 the sum of fifteen thousand dollars ($15,000) to promote economic development in the county.

(b) These funds shall not become part of the continuation budget. Any unexpended funds at the end of the 1983-84 fiscal year shall not revert to the General Fund.

HB 1274, Control Beaver Pop./Columbus Co.

Rep. Wright

Sec. 239. There is appropriated from the General Fund to the Board of Commissioners of Columbus County for fiscal year 1983-84 the sum of ten

thousand dollars ($10,000) for the purpose of establishing a beaver control program for farmlands and timberlands in Columbus County.

HB 1278, High Point Environmental Center

Rep. Jarrell

Sec. 240. There is appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to provide funds to outfit and furnish an educational building at the High Point Environmental Center, provided a like amount is raised by the Environmental Education, Recreation and Research Center, Inc., to match the grant-in-aid on a dollar-for-dollar basis.

HB 1293, Approp. - Moore Regional Park

Rep. Auman
Sens. Hunt, Walker, Jordan

Sec. 241. There is appropriated from the General Fund to Moore County the sum of one hundred thousand dollars ($100,000) for the fiscal year 1983-84 for the purpose of developing Southern Pines Reservoir Park to serve the residents of Moore and the surrounding counties.

HB 1325, McDowell Comm. of 100, Inc., Funds

Rep. Hunter
Sens. Swain, Winner

Sec. 242. There is appropriated from the General Fund to McDowell Committee of 100, Inc., the sum of twenty-five thousand dollars ($25,000) for fiscal year 1983-84 to promote the economic improvement of the citizens of McDowell County and Western North Carolina by encouraging and recruiting new and expanded industry; to relieve conditions of poverty, unemployment and underemployment; and to combat community deterioration through the promotion of industrial and civic development.

HB 1357, Reeves Center Funds

Rep. Diamont

Sec. 243. There is appropriated from the General Fund to the Reeves Community Center of Mount Airy, Inc., for fiscal year 1983-84 the sum of five thousand dollars ($5,000) for capital construction and renovation. The funds shall be available only if the Reeves Community Center of Mount Airy, Inc., raises at least five thousand dollars ($5,000) in non-State funds for the project.

HB 1359, Bladen Funds for Fire Stations

Rep. Bowen

Sec. 244. There is appropriated from the General Fund to Bladen County the sum of twenty-five thousand dollars ($25,000) for fiscal year 1983-84 to construct fire stations in the communities of White Oak and Lisbon.

HB 1372, Soil, Water Conservation Funds

Reps. Colton, N.J. Crawford, Greenwood, Nesbitt

Sec. 245. There is appropriated from the General Fund to the Soil and Water Conservation Commission in the Department of Natural Resources and

Community Development the sum of four thousand five hundred dollars ($4,500) for the 1983-84 fiscal year (1) to develop, carry out, and accelerate a statewide program to enhance public awareness of soil and water conservation districts and programs and (2) to involve business firms and corporations in protection of soil and water resources.

HB 1381, Bladen Indus. Park Study Funds

Rep. Pool

Sec. 246. There is appropriated from the General Fund to Bladen County the sum of forty-two thousand eight hundred ninety-five dollars ($42,895) for fiscal year 1983-84 to conduct an engineering study of the Council Industrial Site to determine the suitability of the site for an industrial park.

HB 1416, Rutherford Industrial Develop. Funds

Rep. Owens

Sec. 247. (a) There is appropriated from the General Fund to the Rutherford County Industrial Development Commission for the fiscal year 1983-84 the sum of twenty-five thousand dollars ($25,000) to promote industrial development in the county.

(b) These funds shall not become part of the continuation budget. Any unexpended funds at the end of the 1983-84 fiscal year shall not revert to the General Fund.

HB 1417, Polk Industrial Development Funds

Rep. Owens

Sec. 248. (a) There is appropriated from the General Fund to the Polk County Industrial Development Commission for the fiscal year 1983-84 the sum of fifteen thousand dollars ($15,000) to promote industrial development in the county.

(b) These funds shall not become part of the continuation budget. Any unexpended funds at the end of the 1983-84 fiscal year shall not revert to the General Fund.

HB 1418, Columbus 100 Committee Funds

Rep. Wright

Sec. 249. There is appropriated from the General Fund to Columbus Committee of 100, Inc., of Columbus County, the sum of forty thousand dollars ($40,000) for fiscal year 1983-84 to promote the economic improvement of the citizens of Columbus County and Southeastern North Carolina by encouraging and recruiting new and expanded industry; to relieve conditions of poverty, unemployment, and underemployment; and to combat community deterioration through the promotion of industrial and civic development in Columbus County.

HB 1431, Duplin Airport Funds

Rep. Murphy

Sec. 250. There is appropriated from the General Fund to Duplin County for fiscal year 1983-84 the sum of fifty thousand dollars ($50,000) for a localizer at the Duplin County Airport.

HB 1442, Johnston Airport Funds

Reps. Brannan, B. P. Woodard

Sec. 251. There is appropriated from the General Fund to Johnston County for fiscal year 1983-84 the sum of fifty thousand dollars ($50,000) for runway expansion at the Johnston County Airport.

HB 1448, Cumberland Dev. Funds

Reps. Edwards, Jeralds

Sec. 252. There is appropriated from the General Fund to Cumberland County the sum of one hundred thousand dollars ($100,000) for fiscal year 1983-84 for the development of area resources. Of these funds, forty thousand dollars ($40,000) shall be paid to the Fayetteville and Cumberland Opportunities Industrialization Centers (OIC), ten thousand dollars ($10,000) shall be paid to the Fayetteville Business League, ten thousand dollars ($10,000) shall be paid to the Spring Lake Civic Center Foundation, ten thousand dollars ($10,000) shall be paid to the 71st Improvement Association, ten thousand dollars ($10,000) shall be paid to the Fayetteville Showcase, Inc., ten thousand dollars ($10,000) shall be paid to the Cumberland County Nutrition Program for the Elderly (Sunshine Center), and ten thousand dollars ($10,000) shall be paid to the Board of County Commissioners of Cumberland County for aid in construction of a new branch library.

No Bill, Rockingham-Richmond Econ. Dev.

Rep. Lee

Sec. 253. There is appropriated from the General Fund to the Rockingham-Richmond Economic Development Corporation for fiscal year 1983-84 the sum of twenty-five thousand dollars ($25,000) to promote economic development.

No Bill, Kernersville Civitan Park

Rep. Womble

Sec. 254. There is appropriated from the General Fund to the Department of Natural Resources and Community Development for fiscal year 1983-84 the sum of five thousand dollars ($5,000) as a grant-in-aid for restoration of the Kernersville Civitan Park in Kernersville.

No Bill, Covington Park

Rep. Womble

Sec. 255. There is appropriated from the General Fund to the Department of Natural Resources and Community Development for fiscal year 1983-84 the sum of five thousand dollars ($5,000) as a grant-in-aid for the Numa Emma Covington Memorial Park in Rural Hall.

No Bill, Broadway Park Funds

Reps. Etheridge, Wicker

Sec. 256. There is appropriated from the General Fund to the Town of Broadway for fiscal year 1983-84 the sum of fifteen thousand dollars ($15,000) for park improvements.

SB 104, Waynesborough Park Appropriation

Sen. H. Barnes

Sec. 257. There is appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of fifty thousand dollars ($50,000) for fiscal year 1983-84 for the second phase of development of Waynesborough Park in Wayne County.

SB 305, Approp. - W. Onslow Beach Ramp Funds

Sen. Guy

Sec. 258. There is appropriated from the General Fund to the North Carolina Wildlife Resources Commission the sum of forty thousand dollars ($40,000) for the fiscal year 1983-84 for the construction of a boat ramp at West Onslow Beach.

SB 417, Cedar Island Boat Ramp Funds

Sen. J. Thomas

Sec. 259. There is appropriated from the General Fund to the Wildlife Resources Commission the sum of fifty thousand dollars ($50,000) for the 1983-84 fiscal year for the purpose of constructing a wildlife boating access area at Cedar Island in Carteret County.

SB 594, Kenly Development Funds

Sen. Warren

Sec. 260. There is appropriated from the General Fund to the Town of Kenly for fiscal year 1983-84 the sum of ten thousand dollars ($10,000) to assist the Friendly Kenly Council in the development of the Town, provided a like amount is raised by the Council to match this grant-in-aid on a dollar-for-dollar basis.

SB 687, Tater Hole Boat Ramp Funds

Sen. J. Edwards

Sec. 261. There is appropriated from the General Fund to the Wildlife Resources Commission for fiscal year 1983-84 the sum of fifteen thousand dollars ($15,000) for a boat ramp at Tater Hole at Granite Falls on Lake Rhodhiss on the Catawba River.

No Bill, Mecklenburg Parks and Recreation

Sen. Lawing

Sec. 262. There is appropriated from the General Fund to the Office of State Budget and Management for fiscal year 1983-84 the sum of one hundred thousand dollars ($100,000) for a grant-in-aid to the Mecklenburg County Parks and Recreation Department.

No Bill, E. Arcadia Fire Dept.

Sen. Soles

Sec. 263. There is appropriated from the General Fund to the East Arcadia Volunteer Fire Department for fiscal year 1983-84 the sum of twenty-five thousand dollars ($25,000) for equipment and expenses.

Part 7. Miscellaneous.

Sec. 264. Unless otherwise specified, funds appropriated in this act shall be disbursed by the Office of State Budget and Management. The appropriations made in this act are for the public purposes expressed in each section.

Sec. 265. Except as specifically required by this act, no matching funds are required for the appropriations made by this act.

Sec. 266. The headings preceding each section of this act are included for reference purposes only, and in no way do they limit, expand, define, prescribe, or otherwise affect the scope or application of this act.

Sec. 267. Except as specifically provided otherwise, this act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

S. B. 605 CHAPTER 924

AN ACT TO APPROPRIATE FUNDS FOR THE DEVELOPMENT OF A WATER QUALITY MANAGEMENT PLAN FOR THE NEUSE RIVER BASIN AND TO CREATE A LEGISLATIVE COMMISSION TO REVIEW WATER POLLUTION PROBLEMS AND WATER RESOURCES NEEDS, AND OVERSEE THE DEVELOPMENT OF THE NEUSE RIVER BASIN WATER QUALITY MANAGEMENT PLAN.

The General Assembly of North Carolina enacts:

Section 1. Creation of the Commission; Membership; Chairmen. There is created the Legislative Commission to oversee the development of the Neuse River Basin Water Quality Management Plan. The Commission shall consist of 10 members appointed as follows:

(1) Three members of the Senate appointed by the President of the Senate, one of whom shall be designated a cochairman of the Commission;

(2) Two nonlegislative members appointed by the President of the Senate who are residents of the Neuse River Basin area;

(3) Three members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be designated a cochairman of the Commission.

(4) Two nonlegislative members appointed by the Speaker who are residents of the Neuse River Basin area.

Sec. 2. Duties of the Commission. The Commission and the Department of Natural Resources and Community Development shall jointly conduct an extensive review of water pollution problems and water resources needs of the Neuse River Basin. Ongoing analysis and monitoring of algal problems in the Neuse River Basin shall be intensified to result in the development of the "Neuse River Basin Action Plan" by June 1, 1984. A preliminary report that will include, to the extent possible, any needed action and/or legislation necessary to improve the water quality of the Neuse River shall be submitted to the General Assembly by February 1, 1985. A final "Neuse River Basin Water

Quality Management Plan" shall be submitted to the General Assembly by May 1, 1986.

The interim report may be in the form of a progress report, but the final report shall specify:

(1) actions necessary to reduce algal growth to acceptable levels;

(2) the impact of contributors in the Neuse Basin on water quality conditions in the Lower Neuse Basin;

(3) steps to control harmful contributions in the Neuse Basin that have detrimental effects on water quality conditions in the entire Neuse Basin;

(4) the feasibility of establishing a phosphate detergent ban in the Neuse River Basin;

(5) the effect such a ban is likely to have on phosphorous contributions basinwide;

(6) a determination of the ecological health of the Neuse River with regard to water quality parameters.

In addition, the Commission shall evaluate the efforts of the Department of Natural Resources and Community Development related to water quality evaluations in the Neuse River Basin.

Sec. 3. Staff. The Legislative Services Officer shall provide professional assistance as directed by the Legislative Services Commission. The Department of Natural Resources and Community Development shall provide the technical expertise required by the Commission.

Sec. 4. Travel and Subsistence Allowances. Legislative members of the Commission shall receive subsistence and travel allowances according to the provisions of G.S. 120-3.1. Nonlegislative members of the Commission shall receive per diem compensation and travel expenses as provided by G.S. 138-5.

Sec. 5. Of the funds appropriated to the General Assembly in Section 2 of Chapter 761 of the 1983 Session Laws, the General Assembly may use sufficient amounts to carry out the provisions of this act, including payments to the Department of Natural Resources and Community Development, if authorized by the Legislative Services Commission.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

S. B. 662 CHAPTER 925

AN ACT TO ALLOW SANITARY DISTRICTS TO MAKE ASSESSMENTS AGAINST BENEFITTED PROPERTY FOR WATER AND SEWER PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-128 is amended by adding a new subdivision to read:

"(23) To make special assessments against benefitted property within the corporate limits of the sanitary district and within the area served or to be served by the sanitary district for the purpose of constructing, reconstructing, extending, or otherwise improving water systems or sanitary collection, treatment, and sewage disposal systems, in the same manner that a county may make special assessments under authority of Article 9 of Chapter 153A of the General Statutes, except that the language appearing in G.S. 153A-185 reading as follows: 'A county may not assess property within a city pursuant to

subdivision (1) or (2) of this section unless the governing board of the city has by resolution approved the project,' shall not apply to assessments levied by sanitary districts. For the purposes of this paragraph, references in Article 9 of Chapter 153A of the General Statutes, to the 'county,' the 'board of county commissioners,' 'the board' or a specific county official or employee are deemed to refer respectively to the sanitary district and to the official or employee of the sanitary district who performs most nearly the same duties performed by the specified county official or employee.

Assessment rolls after being confirmed shall be filed for registration in the office of the Register of Deeds of the county in which the property being assessed is located, and the term 'county tax collector' wherever used in G.S. 153A-195 and G.S. 153A-196, shall mean the officer designated by the sanitary district to perform the functions described in said sections of the statute. This subdivision applies only to sanitary districts with a population of 15,000 or over."

Sec. 2. Effective January 1, 1984, G.S. 120-128(23) is recodified as G.S. 130A-55(22).

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

S. B. 701 CHAPTER 926

AN ACT CREATING THE HAZARDOUS WASTE STUDY COMMISSION OF 1983.

The General Assembly of North Carolina enacts:

Section 1. Creation of commission; membership. There is created in the General Assembly the Hazardous Waste Study Commission of 1983. The Commission shall consist of 10 members appointed as follows:

(1) Three members of the Senate appointed by the President of the Senate;

(2) Three members of the House of Representatives appointed by the Speaker of the House of Representatives;

(3) Two environmentalists, one appointed by the President of the Senate and one by the Speaker of the House of Representatives; and

(4) Two representatives of industry, one appointed by the President of the Senate and one by the Speaker of the House of Representatives.

The President of the Senate and the Speaker of the House of Representatives shall each designate one of his appointees to serve as cochairman of the Commission.

Sec. 2. Duties of Commission. The Commission shall study alternatives to landfilling hazardous wastes including prevention, reduction, treatment, incineration and recycling. The Commission shall also study the issue of what can be placed in a hazardous waste landfill without posing a threat to the environment or to the health and safety of the general public. The Commission shall report to the 1984 Regular Session of the 1983 General Assembly by May 1, 1984. The report shall include any draft legislation necessary to carry out the recommendations of the Commission.

Sec. 3. Staff; meeting rooms. The Legislative Services Officer shall provide necessary professional and clerical assistance to the Commission. State departments, commissions, boards and agencies shall provide all professional

and technical assistance requested by the Commission. The Commission may contract for assistance from non-State personnel as it deems necessary.

The Commission may hold its meetings in legislative buildings with the prior approval of the Legislative Services Commission.

Sec. 4. Subsistence and travel expenses. Members of the Commission who are also members of the General Assembly shall be paid subsistence and travel expenses at the rate set forth in G.S. 120-3.1. Members of the Commission who are officials or employees of the State shall receive travel allowances at the rate set forth in G.S. 138-6. All other members of the Commission shall be paid the per diem and allowances at the rates set forth in G.S. 138-5.

Sec. 5. Appropriation. There is appropriated from the General Fund to the General Assembly the sum of ten thousand dollars ($10,000) for the 1983-84 fiscal year to carry out the provisions of Sections 1 through 4 of this act.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

H. B. 810 CHAPTER 927

AN ACT TO ESTABLISH THE GOVERNOR'S ADMINISTRATIVE RULES REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 143B of the General Statutes is amended by designating the existing sections as Part 1 and adding a new Part 2 to read:

"Part 2. Governor's Administrative Rules Review Commission.

"§ 143B-29.1. *Governor's Administrative Rules Review Commission established.*—The Governor's Administrative Rules Review Commission is hereby created in the Office of the Governor. The Commission shall consist of ten members, four to be appointed by the Governor and six by the General Assembly, three upon the recommendation of the President of the Senate, and three upon the recommendation of the Speaker of the House of Representatives. Appointments by the General Assembly shall be made in accordance with G.S. 120-121 and vacancies in those appointments shall be filled in accordance with G.S. 120-122. All appointees shall serve two-year terms. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of any member shall be for the balance of the unexpired term. The Chairman shall be appointed by the Governor.

The Commission shall meet at such times and places as the Chairman shall designate but in any event shall meet at least once a month.

Members of the Commission who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Commission who are officers or employees of the State shall receive reimbursement for travel and subsistence at the rate set out in G.S. 138-6.

A quorum of the Commission shall consist of the Chairman and four other Commission members, or a majority of the Commission, whichever is fewer.

"§ 143B-29.2. *Review of rules.*—(a) Rules adopted by an agency to be effective on or after January 1, 1984, shall be filed in the Office of the Governor prior to the filing made with the Attorney General pursuant to G.S. 150A-59.

(b) After a rule is filed with the Governor, he shall submit it to the Commission which shall determine whether the rule:

(1) is within the statutory authority of the agency;

(2) is clear and unambiguous;

(3) is necessary.

The Commission shall review a rule submitted to it by the Governor not later than the last day of the first calendar month following the filing of the rule with the Governor. The Commission, by a majority vote of the members present and voting, may extend the time for review of a rule by 60 days to obtain additional information on a rule. The Commission shall file notice of the extension of time for review of a rule with the agency and the Attorney General. Upon that filing, the effectiveness of the rule is delayed for a 60-day period.

(c) If the Commission finds that an agency did not act within its statutory authority in promulgating a rule or a part of a rule, or that a rule is not clear and unambiguous, or that a rule is unnecessary, the Commission shall object and delay the effectiveness of said rule or part of a rule. The Commission shall transmit to the agency, the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Attorney General a written report of the objection and delay of the rule or its part and the reasons for the delay. The delay of the effectiveness of the rule or its part is effective when the Attorney General receives the written report transmitted by the Commission. A rule or its part that is delayed is not 'effective', as defined by G.S. 150A-2(2a).

(d) Within 30 days after receipt of the Commission's written report, an agency shall either amend or repeal the rule to cure the defects cited as reasons for the Commission's objection or return the rule unamended to the Commission.

(e) While the effectiveness of a rule or its part is delayed, the agency which has promulgated it may not adopt another rule which has substantially identical provisions to those for which the Commission delayed the effectiveness of the original rule or part of a rule.

(f) The filing of an amendment to a rule places the entire rule before the Commission for its review.

(g) If an agency does not amend or repeal a delayed rule to cure the defects cited as reasons for the Commission's objection and delay, the Commission shall veto the rule. The Commission shall transmit to the agency, the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Attorney General the written report of the veto of the rule. A rule that is vetoed is not 'effective', as defined by G.S. 150A-2(2a).

"§ 143B-29.3. *Temporary rules.*—Rules adopted in accordance with the procedures in G.S. 150A-13 shall be reviewed by the Commission and are subject to objection as provided in G.S. 143B-29.2. The Commission shall review the reasons given for the adoption of a temporary rule and may veto the rule due to the agency's failure to make the finding required by G.S. 150A-13.

"§ 143B-29.4. *Hearings.*—(a) Notwithstanding the time limitation on review of rules contained in G.S. 143B-29.2, the chairman of the Commission may at any time call a public hearing before the Commission on any rule or part of a rule upon the recommendation of the Commission or upon motion of any

member of the Commission. Within 60 days after the public hearing, the Commission may find that the agency did not act within its statutory authority in promulgating the rule, or that the rule is not clear and unambiguous or that the rule is unnecessary, and object to the rule in accordance with G.S. 143B-29.2.

(b) At least 15 days before the hearing, notice of the hearing shall be given to the rule-making agency and to such other persons that desire to be heard, that the Chairman of the Commission considers to be persons that may be affected by the rule or that may request copies of the notice.

"§ 143B-29.5. *Failure to object and delay; inadmissibility into evidence.*—(a) The failure of the Commission to object to and delay the effectiveness of a rule or its part shall not be deemed to be approval of the statutory authority of the rule or its part by the Commission.

(b) Evidence of the Commission's failure to object to and delay the effectiveness of the rule or its part shall be inadmissible in all civil or criminal trials or other proceedings before courts, administrative agencies or other tribunals."

Sec. 2. Article 6C of Chapter 120 of the General Statutes is repealed.

Sec. 3. G.S. 150A-12(b) is amended by deleting "Director of Research of the Legislative Services Commission".

Sec. 4. G.S. 150A-13(a) and (b) are amended by deleting "and the Legislative Research Commission's Administrative Rules Review Committee".

Sec. 5. G.S. 150A-59(c) is amended by adding a new sentence at the end to read: "The effectiveness of rules adopted prior to December 31, 1983, shall not be affected by the imposition of the filing requirement with the Governor under G.S. 150A-60(5)."

Sec. 6. G.S. 150A-60(4) is amended by inserting a period after "Attorney General" and by deleting the remaining language of that section.

Sec. 7. The first sentence of G.S. 150A-12(b) is rewritten to read:

"The agency shall transmit copies of the notice to the Attorney General, the Governor, and all persons who have requested the agency in writing for advance notice of proposed action which may affect them."

Sec. 8. The second sentences of G.S. 150A-13(a) and (b) are amended by inserting after "Attorney General" and before "with the" the following: "and the Governor".

Sec. 9. G.S. 150A-60(4) is rewritten to read as follows:

"(4) Be in the physical form specified by the Attorney General; and

(5) Bear a notation by the Governor that the rule has been filed in accordance with Part 2 of Article 1 of Chapter 143B. This subsection does not apply to rules adopted by the Industrial Commission, the Utilities Commission, or the Department of Transportation relating to traffic sign ordinances, and road and bridge weight limits."

Sec. 10. G.S. 150A-63.1 is amended by inserting "*and Governor's Administrative Rules Review Commission*" between "*Committee*" and "*reports*" in the catchline and is further amended by inserting "or the Governor's Administrative Rules Review Commission's" between "Committee's" and "objection" in the first sentence.

Sec. 11. G.S. 143B-14(b) is amended by adding a new sentence at the end of the subsection to read: "Provided, however, that the provisions of this

subsection shall not apply to the review of rules by the Governor's Administrative Rules Review Commission."

Sec. 12. On November 1, 1983, the Legislative Services Officer shall transfer from the funds appropriated to the Legislative Research Commission's Administrative Rules Review Committee to the Office of the Governor for the work of the Governor's Administrative Rules Review Commission all unencumbered funds.

Sec. 13. The second sentence of G.S. 150A-1(a) is amended by inserting after "Chapter:" and before "the Employment Security Commission" the following: "The Governor's Administrative Rules Review Commission,".

Sec. 14. This act shall become effective November 1, 1983, except for Sections 2, 3, 4, and 6 which shall become effective August 1, 1983.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

H. B. 1476 CHAPTER 928

AN ACT MAKING ADDITIONAL APPROPRIATIONS FOR VARIOUS LOCAL PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Carolina Theatre in Greensboro the sum of twenty-five thousand dollars ($25,000) for fiscal year 1983-84 for capital improvements to further implement the rehabilitation and restoration of the Carolina Theatre, provided the Carolina Theatre raises a like amount to match this grant-in-aid on a dollar-for-dollar basis.

Sec. 2. There is appropriated from the General Fund to the New Hanover County Museum the sum of ten thousand dollars ($10,000) for fiscal year 1983-84 to purchase the Civil War artifacts made available to the museum by the closing of the Blockade Runner Museum.

Sec. 3. There is appropriated from the General Fund to the Department of Community Colleges the sum of fifteen thousand dollars ($15,000) for fiscal year 1983-84 to purchase a van for Brunswick Technical College, to be used by Brunswick Technical College primarily to transport handicapped individuals.

Sec. 4. There is appropriated from the General Fund to the Brunswick County Resources Development Commission the sum of five thousand dollars ($5,000) for fiscal year 1983-84 to erect signs promoting Brunswick County near the county line.

Sec. 5. There is appropriated from the General Fund to the Rock House Preservation Commission for fiscal year 1983-84 the sum of fifteen thousand dollars ($15,000) for the Captain John Martin Rock House, owned by the Stokes County Historical Society.

Sec. 6. The committee substitute for SB313 entitled "AN ACT MAKING APPROPRIATIONS FOR VARIOUS LOCAL PROJECTS" is amended as follows:

(1) by deleting the phrase "fifty thousand dollars ($50,000)" in Section 207 of the bill and inserting the phrase "forty thousand dollars ($40,000)" in lien thereof;

(2) by deleting the phrase "twenty-five thousand dollars ($25,000)" in Section 185 of the bill and inserting the phrase "thirty-five thousand ($35,000)" in lien thereof; and

(3) by deleting the phrase "twenty-five thousand dollars ($25,000)" in Section 186 of the bill and inserting the phrase "fifteen thousand dollars ($15,000)" in lieu thereof.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

S. B. 222 CHAPTER 929

AN ACT TO ALLOW ANY UNUSED PORTION OF THE TAX CREDIT PROVIDED FOR CONVERSION OF AN INDUSTRIAL BOILER TO WOOD FUEL TO BE CARRIED FORWARD FOR FIVE YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.26 and G.S. 105-151.5 are each amended by adding a new sentence at the end of the section to read:

"If a credit is granted under this section to a taxpayer engaged in the business of poultry production and that credit exceeds the tax imposed under this Division, the excess may be carried forward and applied to the tax imposed under this Division for the succeeding five years."

Sec. 2. This act is effective upon ratification and applies to credits allowed in taxable years beginning on or after January 1, 1982.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

S. R. 2 RESOLUTION 1

A JOINT RESOLUTION INFORMING HIS EXCELLENCY, GOVERNOR JAMES B. HUNT, JR., THAT THE GENERAL ASSEMBLY IS ORGANIZED AND READY TO PROCEED WITH PUBLIC BUSINESS AND INVITING THE GOVERNOR TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 7:00 P.M., MONDAY, JANUARY 17, 1983.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. A committee of two Senators and four Representatives shall be appointed by the presiding officers of the respective houses to notify His Excellency, Governor James B. Hunt, Jr., that the General Assembly is organized and is ready to proceed with public business, and to invite him to address a joint session of the Senate and House of Representatives at 7:00 p.m., Monday, January 17, 1983.

Sec. 2. The full text of the Governor's message shall be carried in the appendix of the House and Senate Journals of the 1983 Session of the General Assembly.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of January, 1983.

H. R. 54 RESOLUTION 2

A JOINT RESOLUTION INVITING HIS EXCELLENCY, GOVERNOR JAMES B. HUNT, JR., TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 2:00 P.M., TUESDAY, JANUARY 25, 1983.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. A committee of four on the part of the Senate and four on the part of the House of Representatives shall be appointed by the presiding officers of the respective houses. The committee shall invite His Excellency, Governor James B. Hunt, Jr., to deliver an address to a Joint Session of the General Assembly at 2:00 P.M. Tuesday, January 25, 1983.

Sec. 2. The full text of the Governor's message shall be entered in the Appendix of the Senate and House Journals of the 1983 Session of the General Assembly.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of January, 1983.

H. R. 105 **RESOLUTION 3**

A JOINT RESOLUTION HONORING WADE BARBER, A FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Wade Barber was born in North Wilkesboro on April 20, 1893, and died a resident of Pittsboro, Chatham County, September 2, 1982; and

Whereas, Wade Barber was graduated from Pittsboro High School, Guilford College, and The University of North Carolina School of Law; and

Whereas, Wade Barber began his practice of law March 1916 in Pittsboro at the age of 23 and ultimately served as town attorney, Chatham County attorney, county solicitor, member of the State Bar Council and was esteemed as an outstanding advocate for all whom he represented in his general practice, and was senior partner in the firm of Barber, Holmes and McLaurin upon his death; and

Whereas, Wade Barber made numerous civic contributions to his community and his State, including: service as a trustee of The University of North Carolina and for 15 years member of its executive committee; Chairman of the Board of Directors of the Bank of Pittsboro, and as a Director of the Central Carolina Bank and Trust Company; and

Whereas, Wade Barber was active in his dedication and service to the Democratic party; including service as the Chairman of the party in Chatham County during the years 1930-1938 and 1950-1968; and

Whereas, Wade Barber was a member of the North Carolina House of Representatives in 1925 and 1945 and the North Carolina Senate in 1939, 1943, and 1947 during which tenure he served as Chairman of the Senate Public Welfare and Appropriations Committees and as a member of the Advisory Budget Commission; and

Whereas, during the 1945 and 1947 Sessions of the General Assembly, Wade Barber was a major force in obtaining funds for The University of North Carolina Medical School and North Carolina Memorial Hospital; and

Whereas, after his service in the General Assembly, Wade Barber continued to work with the Legislature as a respected Legislative lobbyist; and

Whereas, Wade Barber was dedicated in his service to the Presbyterian Church, including service as an elder, Sunday school teacher and trustee in the Pittsboro Presbyterian Church for 42 years; and

Whereas, whether as an attorney, civic leader, political leader, legislator, or church leader, the name of Wade Barber meant respect and integrity;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly recognizes the achievements of Wade Barber and expresses its appreciation for his contributions to the State.

Sec. 2. The General Assembly extends its deepest sympathy to the family and friends of Wade Barber and mourns the loss of this able and devoted public servant.

Sec. 3. The Secretary of State shall send certified copies of this resolution to the children of Wade Barber — Wade Barber, Jr., Betty Scott Smith, and Mary Hayes Holmes.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1983

H. R. 98 RESOLUTION 4

A JOINT RESOLUTION MEMORIALIZING THE LIFE AND WORK OF RAYMOND M. WHEELER, M.D.

Whereas, Dr. Raymond M. Wheeler, one of North Carolina's most distinguished medical practitioners and civil libertarians, and an eloquent advocate for the Southern poor, died on February 17, 1982; and

Whereas, Dr. Raymond M. Wheeler was born in Farmville, North Carolina, in 1918 and graduated from The University of North Carolina in Chapel Hill in 1941; and

Whereas, Dr. Raymond M. Wheeler honorably served his country as an Army Medical Corps officer during World War II, receiving the Silver Star and Purple Heart for his actions in the Battle of the Bulge; and

Whereas, Dr. Raymond M. Wheeler practiced medicine in the State of North Carolina from 1948 until his death; and

Whereas, Dr. Raymond M. Wheeler was a nationally recognized expert on the nutrition and health problems of the Southern poor; and

Whereas, Dr. Raymond M. Wheeler's life's work in medicine, civil rights and civil liberties brought national honor to the State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina expresses its high regard for the life of service rendered by Dr. Raymond M. Wheeler to the nation, the State of North Carolina and to the city of Charlotte, and mourns the loss of one of North Carolina's truly distinguished citizens.

Sec. 2. The Secretary of State is directed to transmit a certified copy of this resolution to Mrs. Julie Wheeler.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1983.

S. R. 64 RESOLUTION 5

A JOINT RESOLUTION ENCOURAGING HEALTH INSURANCE CARRIERS TO OFFER AND PROMOTE COVERAGE FOR MENTAL HEALTH AND RELATED SERVICES.

Whereas, the Mental Health Study Commission has received testimony and reports repeatedly over the last several years regarding the need for expanded insurance coverage for mental health, mental retardation and substance abuse services; and

Whereas, the Department of Human Resources Ad Hoc Committee on Insurance, at the Commission's request, completed a thorough review of current practices related to third party coverage of mental health and related services; and

Whereas, scientific research indicates that general health care costs and specific inpatient costs for psychiatric and related services can be reduced by the provision of outpatient treatment for persons suffering from mental illness, substance abuse and behavioral problems related to mental retardation; and

Whereas, insurance carriers in North Carolina do not consistently offer or provide third party coverage for outpatient treatment for mental health and related problems; and

Whereas, the Study Commission has received further testimony regarding the efficacy of Employee Assistance Programs and their ability through the early identification of employee problems to reduce the costly and debilitating health effects of those problems;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. All companies which offer health insurance policies for group or individual coverage are encouraged to include benefits for outpatient mental health, substance abuse and behavioral therapy comparable to outpatient benefits provided for other illnesses. Furthermore, these companies are encouraged to conduct studies as they deem relevant to assess the impact of this coverage on the regular utilization of both general health care and specific inpatient psychiatric and related care. Furthermore, these companies are encouraged to explore and investigate the positive impact that Employee Assistance Programs can have on lowering health care costs and to consider incentives which they might provide to employers who provide Employee Assistance Services.

Sec. 2. The Department of Insurance shall convey a copy of this resolution to all companies which are licensed to issue health insurance policies within the State of North Carolina within 45 days of ratification.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1983.

S. R. 108 RESOLUTION 6

A JOINT RESOLUTION URGING THE CONGRESS OF THE UNITED STATES TO OPPOSE THE PASSAGE OF A FEDERAL TUITION TAX CREDIT BILL.

Whereas, our country nearly two hundred years ago established the democratic goal of equality of opportunity for all citizens of the republic; and

Whereas, the principle of separation of church and state was also established as a fundamental precept of the First Amendment to the United States Constitution; and

Whereas, passage of legislation supporting federal tuition tax credits for persons who send their children to private schools would violate the above goal and principle which have been major factors in building our American democracy; and

Whereas, adoption of federal tuition tax credit legislation would give the force of law to a vast social experiment which virtually would destroy public education as conceived over the years through adherence to the above goal and principle; and

Whereas, tuition tax credits give private schools an unfair competitive advantage over public schools because private schools can refuse to offer services that public schools must provide and they can be selective with regard to whom they admit; and

Whereas, adoption of tuition tax credits would lead to an educational caste system by drawing middle and higher income children into private schools; and since many families are too poor to claim the tax break, the poor and minorities would be barred from participation; and

Whereas, tuition tax credits would erode voter support for local school budgets because some parents who would be most likely to support quality programs and facilities for the public schools would be attracted to private schools as federal revenues shift from public to private schools; and

Whereas, North Carolina's own, venerable, Constitutional Statesman, former Senator Sam J. Ervin, Jr., has forcefully characterized the proposed tuition tax credit legislation as unwise, unjust, and unconstitutional; and

Whereas, North Carolina's Governor, James B. Hunt, Jr., has declared 1982-83 as "The Year of the Public Schools" in obvious pride in and support for North Carolina's system of public education; and

Whereas, virtually every organization which represents public schools opposes the concept and the proposal known as tuition tax credits;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly urges the members of the Congress of the United States from North Carolina to oppose the introduction and passage of a tuition tax credit bill.

Sec. 2. The General Assembly urges Congress not to pass a tuition tax credit bill, if introduced.

Sec. 3. The Secretary of State shall transmit copies of this resolution to the members of the Congress of the United States from North Carolina and to the Clerk of the U.S. House of Representatives and the Secretary of the U.S. Senate.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1983.

S. R. 206 RESOLUTION 7

A JOINT RESOLUTION COMMEMORATING THE LIFE AND MEMORY OF NATHAN HUNTER YELTON.

Whereas, Nathan H. Yelton was born on April 5, 1901, in Mitchell County, North Carolina; and

Whereas, Nathan H. Yelton was educated at George Peabody College and The University of North Carolina; and

Whereas, Nathan H. Yelton served as a school teacher, principal and county superintendent of schools in Mitchell County; and

Whereas, Nathan H. Yelton served as State Director of Public Assistance from 1937-1941, Executive Secretary of the State School Commission from 1941-1942, and Controller of the State Board of Education from 1942-1943; and

Whereas, Nathan H. Yelton served as Major in the U. S. Army, including 18 months overseas, from 1943-1945; and

Whereas, Nathan H. Yelton served from 1945 to 1968 as Executive Director of the Teachers' and State Employees' Retirement System and the North Carolina Local Governmental Employees' Retirement System; and

Whereas, Nathan H. Yelton was awarded an Honorary Doctor of Law by Elon College in 1966; and

Whereas, Nathan H. Yelton served as a member of the Board of Aldermen of the Town of Garner from 1970 to 1978; and

Whereas, Nathan H. Yelton served as Assistant Secretary of Human Resources, heading the Division of Aging from 1977 until his death; and

Whereas, Nathan H. Yelton with dignity, efficiency and dedication expanded the services of the Division of Aging to and for the older citizens of this State; and

Whereas, Nathan H. Yelton worked for over 50 years for the State; and

Whereas, Nathan H. Yelton was a Lion, a Mason, and a Presbyterian; and

Whereas, Nathan H. Yelton on April 16, 1922, married the former Cerena Polk of Maryville, Tennessee, now deceased; daughter, Natalie Y. Morton; and

Whereas, Nathan H. Yelton on May 12, 1956, married the former Betty Holland of Clinton, North Carolina; daughters, Molly Y. Barber and Yolanda Jane; and

Whereas, Nathan H. Yelton's motto was "I don't want to rust out, I want to wear out. Age is a mental thing."; and

Whereas, Nathan H. Yelton died on September 29, 1981;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina General Assembly honors the life and memory of Nathan H. Yelton.

Sec. 2. Certified copies of this resolution shall be sent by the Secretary of State to his widow, Betty H. Yelton, and to his children.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1983.

H. R. 646 RESOLUTION 8

A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 2:00 P.M., TUESDAY, APRIL 5, 1983, AND PROVIDING FOR CONSIDERATION AT THAT SESSION OF CONFIRMATION OF THE GOVERNOR'S APPOINTMENTS TO THE STATE BOARD OF EDUCATION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Senate and House of Representatives shall convene in joint session in the House Chamber at 2:00 P.M., Tuesday, April 5, 1983, to consider confirmation of the Governor's appointments to the State Board of Education. On the question of confirmation of each appointee, the roll of the Senate shall be called and the vote taken, then the roll of the House shall be called and the vote taken, after which the vote in each house on that appointee shall be tabulated and announced. Approval of a majority of each house shall be required for confirmation. Other proceedings in the joint session shall be governed by the rules of the House of Representatives insofar as those rules are applicable. In the event of failure to confirm one or more appointments, the Governor shall be immediately notified and shall be requested to submit replacement appointments within two days after receipt of notice of the failure to confirm.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1983.

H. R. 279 RESOLUTION 9

A JOINT RESOLUTION MEMORIALIZING CONGRESS IN OPPOSITION TO FEDERAL TERMINATION OF LOW-INCOME HOUSING PROGRAMS.

Whereas, the Federal Government has, through actions and expressed intentions, begun to transfer to the state governments the responsibility for many of its housing programs; and

Whereas, funding for these programs has never fully supported existing needs; and

Whereas, the existing funding levels are in jeopardy of diminishing as the programs are being transferred to state control;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The North Carolina General Assembly requests that the delegation to the United States Senate and the House of Representatives from North Carolina use every available means to assure that the level of federal funding provided to North Carolina is adequate to meet the State's housing needs, while supporting increased State authority and responsibility for housing.

Sec. 2. The Secretary of State shall send a certified copy of this resolution to each member of the United States Senate and the United States House of Representatives representing North Carolina, and to the Secretary of the United States Senate and the Clerk of the United States House of Representatives.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of April, 1983.

H. R. 280 RESOLUTION 10

A JOINT RESOLUTION MEMORIALIZING CONGRESS TO PASS LEGISLATION AUTHORIZING TAX DEDUCTIONS FOR MONEY SAVED FOR PURCHASE OF A HOME.

Whereas, escalating home prices have resulted in a significant increase in the down payment required to purchase a home; and

Whereas, the lack of funds for a down payment has reduced the number of persons able to buy a home; and

Whereas, the reduced volume of home purchases has impeded the improvement of housing and has had a regressive effect upon the economy; and

Whereas, a tax deduction for money saved for a down payment would make the dream of homeownership a reality for people who would otherwise not be able to purchase a home; and

Whereas, a greater number of home purchases will spur many sectors of our economy; and

Whereas, a tax deduction for monies set aside for purchase of a principal residence will also help encourage the philosophy of saving; and

Whereas, in the 97th Congress, bills such as H. R. 2033, H. R. 3061, H. R. 3785, H. R. 4752, H. R. 5926, and H. R. 7257 were introduced to allow Individual Housing Accounts;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The North Carolina General Assembly urges the Congress of the United States to pass legislation allowing a tax deduction to encourage monies to be set aside for the first time purchase of a principal residence.

Sec. 2. The Secretary of State shall send a certified copy of this resolution to the members of the United States Congress representing North Carolina and to the Clerk of the United States House of Representatives and the Secretary of the United States Senate.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of April, 1983.

S. R. 15 RESOLUTION 11

A JOINT RESOLUTION REQUESTING THAT THE GOVERNOR OF NORTH CAROLINA CONSIDER THE APPOINTMENT OF MORE ELDERLY CITIZENS TO STATE BOARDS AND COMMISSIONS.

Whereas, the elderly population of North Carolina is approximately 820,000 persons, constituting approximately fourteen percent (14%) of the State's total population; and

Whereas, the elderly population of North Carolina is comprised of men and women who have a wide variety of talent and experience in various fields of endeavor; and

Whereas, these citizens can make a greater contribution to the governing of North Carolina through increased membership on the various commissions and boards whose members are appointed by the Governor; and

Whereas, elderly citizens are eager to serve on these commissions and boards;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly urges the Governor of North Carolina to consider the appointment of more elderly citizens to State boards and commissions to make greater use of these people who have both time and talent.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1983.

S. R. 136

RESOLUTION 12

A JOINT RESOLUTION EXPRESSING THE CONCERN OF THE MEMBERS OF THE GENERAL ASSEMBLY AT THIS TIME OF SUBSTANTIAL UNEMPLOYMENT, AND UNDER-EMPLOYMENT, AND URGING THAT ALL INSTRUMENTALITIES OF GOVERNMENT JOIN IN CONSTRUCTIVE ACTION TO ALLEVIATE THE PRESENT DISTRESS.

Whereas, the members of the North Carolina General Assembly are keenly aware of the serious problems being caused by unemployment, in North Carolina and in the entire nation; and

Whereas, this matter of critical importance is an issue for legislative consideration requiring the best thought and the most effective action that can be taken; and

Whereas, any action taken to improve employment serves to improve productivity and to increase the resources of the public treasury, which in turn allows further action to be taken for the benefit of all our citizens;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina hereby resolves to do all in its power to alleviate the problem of unemployment in the State.

Sec. 2. The General Assembly urges and encourages all educational institutions to become familiar with community needs, and to respond to these needs by adapting extension and vocational education programs to the employment conditions peculiar to their respective attendance areas.

Sec. 3. The General Assembly directs the State Board of Education to urge all educational institutions of this State to develop instructional courses and programs to teach practical and vocational skills to the unemployed.

Sec. 4. The General Assembly directs the State Board of Community Colleges to intensify the present vocational and technical instruction offered by the 58 institutions within its jurisdiction, and to make a redoubled effort to enroll those persons now unemployed, or under-employed.

Sec. 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1983.

H. R. 809

RESOLUTION 13

A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 7:00 P.M., MONDAY, APRIL 18, 1983, FOR THE CONDUCT OF BUSINESS.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Senate and House of Representatives shall convene in Joint Session in the House Chamber at 7:00 P.M., Monday, April 18, 1983, for the conduct of business.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. R. 891 **RESOLUTION 14**

A JOINT RESOLUTION HONORING THE WINNING TRADITION OF COLLEGE BASKETBALL IN THE STATE OF NORTH CAROLINA, CULMINATING IN BACK-TO-BACK N.C.A.A. BASKETBALL CHAMPIONSHIPS BY THE UNIVERSITY OF NORTH CAROLINA TARHEELS AND THE NORTH CAROLINA STATE UNIVERSITY WOLFPACK.

Whereas, the North Carolina State University Wolfpack won the N.C.A.A. Men's Basketball Championship in 1983, and The University of North Carolina Tarheels won the N.C.A.A. Men's Basketball Championship in 1982; bringing back-to-back national championships to the old North State; and

Whereas, these extraordinary accomplishments have brought great honor and distinction to our State throughout the nation;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The North Carolina General Assembly expresses the extreme appreciation and admiration of the people of North Carolina to the North Carolina State University Men's Varsity Basketball Team for winning the 1983 National Collegiate Athletic Association Division I Men's Basketball Championship and specially recognizes the achievements of Head Coach Jim Valvano; Assistant Coaches Tom Abatemarco, Ray Martin, and Ed McLean; team members Thurl Bailey, Alvin Battle, Lorenzo Charles, Walt Densmore, Tommy DiNardo, Terry Gannon, Quinton Leonard, Sidney Lowe, George McClain, Cozell McQueen, Ernie Myers, Walter Lee Proctor, Harold Thompson, Mike Warren, and Dereck Whittenburg; and managers Gary Bryant and Steve Whitt.

Sec. 2. The North Carolina General Assembly expresses the extreme appreciation and admiration of the people of North Carolina to The University of North Carolina at Chapel Hill Men's Varsity Basketball Team for winning the 1982 National Collegiate Athletic Association Division I Men's Basketball Championship and specially recognizes the achievements of Head Coach Dean Smith; Assistant Coaches Bill Guthridge, Eddie Fogler, and Roy Williams; team members Jeb Barlow, Jimmy Black, Jim Braddock, John Brownlee, Chris Brust, Matt Doherty, Cecil Exum, Michael Jordan, Timo Makkonen, Warren Martin, Sam Perkins, Buzz Peterson, Lynwood Robinson, Dean Shaffer, and James Worthy, and managers David Daly, Chuck Duckett, David Hart and Ralph Meekins.

Sec. 3. The Secretary of State shall send certified copies of this resolution to all of the individuals and institutions honored in this resolution.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1983.

H. R. 410 RESOLUTION 15

A JOINT RESOLUTION MEMORIALIZING CONGRESS TO ASSURE THAT FEDERAL LANDS CURRENTLY DESIGNATED AS UNITED STATES FOREST AND PARK LANDS IN NORTH CAROLINA REMAIN IN PUBLIC OWNERSHIP.

Whereas, land is the primary irreplaceable natural and economic resource in North Carolina; and

Whereas, North Carolina's economy and way of life are linked to the effective public management and protection of United States forest and park lands in North Carolina; and

Whereas, the new policies of the Department of the Interior provide for the sale of public lands as a means of generating government revenue in direct opposition to previous policies of maintaining effective public management;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The North Carolina General Assembly urges the United States Congress to assure that federal lands currently designated as United States forest and park lands in North Carolina remain in public ownership and continue to be managed for present and future generations, provided the existing policy of exchanging lands with private owners to benefit forest and park lands shall be continued.

Sec. 2. The Secretary of State shall transmit copies of this resolution to all members of Congress, to the President of the United States, to the Secretary of Agriculture, and to the Secretary of the Interior.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1983.

H. R. 417 RESOLUTION 16

A JOINT RESOLUTION MEMORIALIZING THE LIFE AND WORK OF HARDY TALTON.

Whereas, Hardy Talton, one of Wayne County's most distinguished citizens died on December 7, 1982; and

Whereas, Hardy Talton was born in the Nahunta community of Wayne County on August 18, 1900, the fifth of eight children born to Mack Duffie Talton and Rebecca Pike Talton; and

Whereas, Hardy Talton was educated at Gurley's School, a one room schoolhouse near his home, and at Kenly High School; and

Whereas, in 1921 he married his childhood sweetheart, Mildred Roberts, who shared with him the joys of farm life and community service; and

Whereas, they served as foster parents to Mrs. Talton's sister, Mary Ellen Fields Svare and were the parents of Mary Ellen Talton King; and

Whereas, Hardy Talton was one of the outstanding laymen of the Free Will Baptist denomination, serving as Deacon, Trustee, and Sunday School teacher at Pleasant Grove Free Will Baptist Church, cochairman of the first campaign to raise funds to establish Mount Olive College which is sponsored by the Free Will Baptist denomination, and served as a member of the Board of

Trustees of Mount Olive College and of the Mount Olive College Area Foundation; and

Whereas, in 1930 Hardy Talton was responsible for organizing the Wayne County Sunday School Association which for more than 50 years has served as a focus of joint and interdenominational Sunday School work in Wayne County; and

Whereas, Hardy Talton has devoted many happy hours to organizing and coaching Little League baseball throughout Wayne County, having been an outstanding baseball player as a young man; and

Whereas, Hardy Talton has spent many other happy hours organizing and working with Scout troops in Northern Wayne County; and

Whereas, Hardy Talton, a lifelong Democrat, was persuaded to run for North Carolina Senate in 1949, where he served with distinction for three terms; and

Whereas, Hardy Talton introduced the bill on March 8, 1949, which established the Charles B. Aycock Memorial Commission for the purpose of purchasing and restoring the home of Governor Charles B. Aycock as a State shrine; and

Whereas, after having retired from the North Carolina Senate, Hardy Talton was prevailed upon once again by his fellow citizens of Wayne County to offer himself for service in the North Carolina House of Representatives, where he served with distinction in the 1957 Session; and

Whereas, Hardy Talton was proudest of his legislative record in the field of education, serving as one of the prime sponsors of the legislation authorizing the establishment of the Technical Institute and Community College System in North Carolina; and

Whereas, Hardy Talton's interest in education led him to serve as a member of the Charles B. Aycock Memorial Commission, the Nahunta School Board, and the Charles B. Aycock High School Advisory Council; and

Whereas, Hardy Talton served his community and his fellow man as a member of the Masonic Order, the Nahunta Grange, the Wayne County Farm Bureau and the Junior Order of Mechanics;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina expresses its high regard for the life and service rendered by Hardy Talton to Wayne County and the State of North Carolina and mourns the loss of one of Wayne County and North Carolina's truly distinguished citizens.

Sec. 2. The Secretary of State is directed to transmit a certified copy of this Resolution to Mildred R. Talton, Mary Ellen Svare, and Mary Ellen King.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1983.

S. R. 480 **RESOLUTION 17**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CLAUDE H. FARRELL, JR.

Whereas, Claude H. Farrell, Jr., son of Claude Herman and Josephine McKay Farrell, was born on January 11, 1910, in Harnett County; and

Whereas, Claude H. Farrell, Jr., loved his family, his church, public school people, the Democratic Party, and his roses - probably in that order and dedicated his life to serving his family, his church and the public schools for whom he was a deeply committed and effective advocate; and

Whereas, Claude H. Farrell, Jr., was educated in the Harnett County Public Schools, Davidson College and was graduated from The University of North Carolina at Chapel Hill; and

Whereas, Claude H. Farrell, Jr., was a principal, teacher and coach in Surry County from 1929 to 1934; and

Whereas, Claude H. Farrell, Jr., excelled in everything he undertook and in 1942, as a merchant in Elkin, he was named "Outstanding Young Man of North Carolina" by the North Carolina Junior Chamber of Commerce; and

Whereas, Claude H. Farrell, Jr., because of his knowledge, his insight and his concern for the children of North Carolina, was appointed to the State Board of Education by Governor Kerr Scott in 1949, and again by Governor Luther Hodges in 1955; and

Whereas, Claude H. Farrell, Jr., continued his work in the field of education in 1956 as Chief Liaison for the North Carolina Association of Educators, a position in which he professionally presented the needs of educators and education to the North Carolina General Assembly and gained the respect and trust of the legislators; and

Whereas, first in the Capitol Building and later in the State Legislative Building, Claude H. Farrell, Jr., worked with dedication, integrity, an uncommon capacity for work and a feeling that if it was good for schools, it was good for the State of North Carolina; and

Whereas, his knowledge and insight into the legislative process made him successful and influential in promoting education goals which continue to benefit the children in the public schools and their teachers; and

Whereas, Claude H. Farrell, Jr., contributed his time, his talents and his personal resources to the Democratic Party, he was active in every Democratic primary and general election since the election of Governor Kerr Scott, and in 1975 he joined the first gubernatorial campaign of Governor James B. Hunt, Jr., as Coordinator for the United Educators for Hunt; and

Whereas, Claude H. Farrell, Jr., was named Inaugural Staff Director by Governor James B. Hunt, Jr., in 1976, and served as a Legislative Aide to the Governor during the 1977 Session of the North Carolina General Assembly; and

Whereas, Claude H. Farrell, Jr., never retired but continued his works as a public servant by serving effectively in each and every capacity as State Director for the American Association of Retired Persons from 1977 to 1979, and as its Legislative Chairman from 1980 until his death; and

Whereas, Claude H. Farrell, Jr., was appointed to the Governor's Advisory Council on Aging and served diligently and with integrity with loyal commitment to his work; and

Whereas, Claude H. Farrell, Jr., was a loyal and contributing member to the Section on Older Adults of North Carolina Conference on Social Welfare where his wise counsel and perceptive assistance will be sorely missed; and

Whereas, Claude H. Farrell, Jr., was an invaluable member of the Advisory Committee of the Homemakers Health Aid Service; and

Whereas, Claude H. Farrell, Jr., was active in many civic groups including the Lions Club, the Kiwanis Club and the Jaycees and was a Master Mason; and

Whereas, Claude H. Farrell, Jr., was a man of profound faith who was active in the Methodist Church; serving as a layman, a member of the Finance Committee, Chairman of the Board of Stewards, Sunday School Superintendent and Teacher; and

Whereas, Claude H. Farrell, Jr., brought to all of his endeavors his sincere interest and deep sensitivity to others; and

Whereas, Claude H. Farrell, Jr., was serving as a member of the Study Commission on Aging at the time of his death on February 16, 1982; and

Whereas, had he been allowed to choose the time and place, Claude H. Farrell, Jr., would undoubtedly have chosen to greet death, as he did, while working in his yard, preparing it for yet another spring; and

Whereas, Claude H. Farrell, Jr., is survived by his children by the former Margaret Victoria Harris (deceased), Dr. Claude H. Farrell, III, Dr. Edwin Gayle Farrell and Harris McKay Farrell and by his widow, the former Edythe Senna Hughes and his stepchildren, John Maurice Hughes, III and Barbara Hughes Stahl;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina expresses its deep appreciation for the life and accomplishments of Claude H. Farrell, Jr., and for the devoted and tireless services he rendered to the public schools of North Carolina, the aged of North Carolina, his community and his State.

Sec. 2. The General Assembly of North Carolina extends its deepest sympathy to the family and friends of Claude H. Farrell, Jr., for the loss of a beloved husband and father and a true and trusted friend.

Sec. 3. This resolution shall become a part of the public records of this session of the General Assembly and a copy of it shall be certified by the Secretary of State and transmitted to the widow of Claude H. Farrell, Jr., Edythe Senna Farrell.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1983.

H. R. 934 **RESOLUTION 18**

A JOINT RESOLUTION HONORING THE MEMORY OF THE MEMBERS OF THE GENERAL ASSEMBLY OF 1783 AND OF GOVERNOR ALEXANDER MARTIN.

Whereas, the General Assembly of North Carolina, meeting in Hillsborough, on May 16, 1783,

"Resolved, that the fourth day of July be and is hereby appointed a day of General Thanksgiving and praise to Almighty God for the gracious Interposition of Divine Providence in behalf of this nation; that it hath pleased Him to deliver us from the calamities of War and crown our wishes with the blessings of Peace; and that his Excellency the Governor notify the same by Proclamation;"

and

Whereas, Governor Alexander Martin issued his proclamation on June 18, 1783,

"directing that the said 4th Day of July next be observed as above, hereby strictly commanding and enjoining all Good Citizens of this State to set apart the said Day from bodily labour, and employ the same in devout and religious exercises;"

and

Whereas, pursuant to the resolution of the General Assembly and the proclamation of Governor Martin, the citizens of the Town of Salem, on the fourth day of July in 1783, held the first recorded, official observance in this State of our National Independence Day; and

Whereas, within this decade we shall mark the four hundredth anniversary of the first attempt to establish an English settlement on these shores; and

Whereas, throughout these four centuries as colony and State, North Carolina, has looked to Great Britain as the fountainhead of our legal and political principles and institutions; and

Whereas, for nearly two centuries, our two nations have lived in amity and have twice, in defense of those liberties we treasure, joined in grand alliance to defend our own peoples and those of our allies from threats of tyranny; and

Whereas, we wish to reinforce those bonds of kinship, of friendship, of cultural affinity, and of political principle that unite the people of North Carolina with the people of Great Britain;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. We acknowledge with thanks the lives and services of the members of the General Assembly of 1783 and of Governor Alexander Martin, who two centuries ago initiated in North Carolina the observance of the fourth of July as our National Independence Day.

Sec. 2. We express to the people of Great Britain our ardent desire for the continuation of the cordial relations that our two nations have so long enjoyed, and our fond hope that we may all continue to share the blessing of liberty that together we have gained upon so many an honorable field.

Sec. 3. The Secretary of State is requested to transmit certified copies of this resolution to His Excellency Sir Oliver Wright, British Ambassador, and His Excellency James B. Hunt, Jr., Governor of North Carolina.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1983.

H. R. 340 RESOLUTION 19

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JONAS MELVIN (JACK) GARDNER, A FORMER MEMBER OF THE GENERAL ASSEMBLY FROM JOHNSTON COUNTY.

Whereas, Jonas Melvin (Jack) Gardner was born in the Brogden Community in Johnston County, September 11, 1911, the son of Jonas B. and Mary Elizabeth Baker Gardner; was graduated from Princeton High School and attended the Business Management School of The University of North Carolina; and

Whereas, Jack Gardner served in the United States Army Infantry and did defense work in the Norfolk Navy Yard during World War II; and

Whereas, Jack Gardner founded the Gardner-Creech Oil Company in Smithfield with D. A. Creech in 1947 and he had farming, restaurant and other business interests; and

Whereas, Jack Gardner gave freely of his time, energy and talents to virtually all aspects of life in his community - he was a member of the Smithfield Board of Commissioners from 1964 to 1970 and served as Mayor Pro Tempore from 1967 to 1970; he was a member of the Board of Directors of the First National Bank of Smithfield and served as its chairman from 1974 until the time of his death; he was a past director of the Smithfield Chamber of Commerce; he was a charter member of the Smithfield Lions Club; he was a 32nd degree Scottish Rite Mason, and a past Master of the Smithfield Masonic Lodge; he was a Shriner; he was a member of the Loyal Order of Moose; he was a member of the First Presbyterian Church in Smithfield; he was a past president of the Johnston County Oilmen's Association; and he was a member of the Johnston County Farm Bureau; and

Whereas, he was a member of the North Carolina House of Representatives from 1971-1977 and served as chairman of the Corporations Committee and the State Properties Committee, as vice-chairman of the Banks and Banking Committee, the Wildlife Resources Committee, the Alcoholic Beverage Control Committee, the Agriculture Committee and the Local Government Committee, and as a member of various other committees including the Rules and Operation Committee and the Finance Committee; and

Whereas, Jack Gardner was cochairman of the Legislative Research Commission study on a proposed State sports facility; and

Whereas, Jack Gardner was one of 12 members of the North Carolina Energy Policy Council; and

Whereas, Jack Gardner died January 14, 1981, at 69 years of age, only a short time after taking the oath of office in the House of Representatives in the 1981 General Assembly; and

Whereas, Jack Gardner is survived by four sisters, Elsie Mae Creech of Smithfield, Beatrice Cole of Los Angeles, California, Myra G. Pearce of Winston-Salem and Ava Gardner of London, England; a fifth sister Inez Grimes of Smithfield died in February 1981; and

Whereas, in the untimely death of Jack Gardner, his family, the General Assembly, Johnston County and the State of North Carolina lost a good friend and colleague and an admired and respected man;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina expresses its deep appreciation for the useful and dedicated life of Jonas Melvin (Jack) Gardner and for the great service which he rendered to his community and to the State of North Carolina.

Sec. 2. The General Assembly extends its sympathy to the family of Jonas Melvin (Jack) Gardner for the great loss they have suffered.

Sec. 3. Copies of this resolution shall be certified by the Secretary of State and transmitted to the surviving sisters of Jonas Melvin (Jack) Gardner.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. R. 589 RESOLUTION 20

A JOINT RESOLUTION DESIGNATING WILMINGTON AS AN INTERNATIONAL CITY.

Whereas, the City of Wilmington is the location of a thriving port engaging in extensive trade with other nations; and

Whereas, the City of Wilmington has a free trade zone, to encourage international commerce importing and exporting through the Port of Wilmington; and

Whereas, United States Customs agents are available to meet air flights from international points of origin, enabling extensive international trade and travel; and

Whereas, the City of Wilmington is the only location in the State of North Carolina which can claim these three elements of an international trade program; and

Whereas, the City Council and Wilmington businesses, through the Wilmington Industrial Development, Inc., have invested extensive effort and resources to tap international resources to promote economic development to benefit the State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The City of Wilmington is hereafter designated North Carolina's International City and is encouraged to continue its efforts to bring international trade and economic development through Wilmington to the State of North Carolina.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. R. 760

RESOLUTION 21

A JOINT RESOLUTION DIRECTING THE MENTAL HEALTH STUDY COMMISSION TO EXAMINE FUNDING POLICIES OF AREA MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE PROGRAMS.

Whereas, Article 2F of Chapter 122 establishes area mental health, mental retardation and substance abuse programs as a joint responsibility of local, State and federal government; and

Whereas, federal funds available for allocation to area programs has over the last couple of years decreased; and

Whereas, the State has, since 1973, established different funding mechanisms and different funding categories, some of which require local matching funds; and

Whereas, the relative proportion of local, State and federal funds has shifted over the years and as there is great variation between area programs regarding the funds available to them; and

Whereas, the counties have become increasingly concerned about the yearly requirements for funds for area programs; and

Whereas, the "assurance for continuity of care for persons with mental retardation" as ratified in Chapter 1012, 1981 Session Laws, has drawn particular emphasis to the question of the sharing of fiscal responsibility between local and State government;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Mental Health Study Commission is directed to study the funding policies of the State for area programs. Such study shall include but not be limited to the relative proportion of local, State and federal funds required for delivery of services; the different types and mechanisms used to fund the area programs; and, particular emphasis shall be placed on the relative fiscal responsibilities under the "continuity of care" provision of the General Statutes.

Sec. 2. The Mental Health Study Commission is authorized to make an interim report to the 1983 General Assembly, Second Session 1984, and a final report to the 1985 General Assembly in January 1985.

Sec. 3. The Mental Health Study Commission shall undertake such study and prepare its report within its assigned fiscal resources and with the cooperation of the Department of Human Resources and area programs and county government.

Sec. 4. This resolultion is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. R. 1022 **RESOLUTION 22**

A JOINT RESOLUTION PROVIDING FOR JOINT SESSIONS OF THE HOUSE COMMITTEE ON PUBLIC UTILITIES AND THE SENATE COMMITTEE ON PUBLIC UTILITIES AND ENERGY TO REVIEW THE GOVERNOR'S APPOINTEES TO THE UTILITIES COMMISSION AND THE EXECUTIVE DIRECTOR OF THE PUBLIC STAFF, AND PROVIDING FOR A JOINT SESSION OR SESSIONS OF THE HOUSE OF REPRESENTATIVES AND THE SENATE TO ACT ON CONFIRMATION OF APPOINTMENTS MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION AND FOR EXECUTIVE DIRECTOR OF THE PUBLIC STAFF.

Whereas, under the provisions of G.S. 62-10 appointments made by the Governor to fill vacancies in the membership of the North Carolina Utilities Commission are subject to confirmation by the General Assembly in joint session; and

Whereas, under the provisions of G.S. 62-15 appointments made by the Governor to fill a vacancy in the office of Executive Director of the Public Staff of the North Carolina Utilities Commission are subject to confirmation by the General Assembly in joint session; and

Whereas, a vacancy will exist on the Utilities Commission and in the office of Executive Director of the Public Staff by reason of the expiration of terms; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate appointments to fill the anticipated vacancies;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The House Committee on Public Utilities and the Senate Committee on Public Utilities and Energy shall, in joint session, review the appointees of the Governor for the anticipated vacancies if the committees deem such action appropriate, and shall report their recommendations developed in joint session to a joint session of the House of Representatives and the Senate.

Sec. 2. The House of Representatives and the Senate shall meet in the House Chamber in joint session or sessions on a date or dates to be fixed jointly by the Speaker of the House and the President of the Senate, the date of the first such session being not later than June 3, 1983, to receive the report of their committees and for the purpose of voting on confirmation of the appointments of the Governor to fill the anticipated vacancies if the two houses deem such action appropriate.

Sec. 3. In any joint session of the House of Representatives and the Senate for the purposes set out in Section 2 of this resolution, the roll of the House shall be called and the vote taken, then the roll of the Senate shall be called and the vote taken on the question of confirmation of each appointee, after which the vote in each house shall be tabulated and announced. Approval of a majority of those present and voting of each house shall be required for confirmation. Other proceedings in the joint session shall be governed by the

Rules of the North Carolina House of Representatives insofar as those Rules are applicable.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1983.

H. R. 1157 RESOLUTION 23

A JOINT RESOLUTION SETTING THE DATE FOR THE HOUSE OF REPRESENTATIVES AND SENATE TO ELECT MEMBERS OF THE STATE BOARD OF COMMUNITY COLLEGES.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. Pursuant to G.S. 115D-2.1(b)(4)f. the House of Representatives and Senate shall elect members to the State Board of Community Colleges during the regular sessions of the two houses held on Wednesday, June 8, 1983. At that time each house shall elect one member to the board, for a six-year term beginning July 1, 1983. Each house shall follow the procedure set out in G.S. 115D-2.1 for the nomination and election of members of the board. With the approval of a majority of those voting, either house may use secret ballots as part of the process of choosing a member, provided the election of the member shall be by electronic voting as required by G.S. 115D-2.1.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1983.

H. R. 660 RESOLUTION 24

A JOINT RESOLUTION WITH RESPECT TO THE WORK OF THE COMMISSION ON THE FUTURE OF NORTH CAROLINA.

Whereas, Governor James B. Hunt, Jr., on June 1, 1981, established the Commission on the Future of North Carolina and charged it with the duty of studying the opportunities and problems that the State will face over the next two decades and to recommend policies that would enable wise and constructive responses to those opportunities and problems; and

Whereas, the Governor appointed to the Commission on the Future of North Carolina 65 citizens, including several leaders of the General Assembly, who have invested in the work of the Commission a great deal of time and effort over a period of 18 months; and

Whereas, county committees were organized throughout the State to study the implications of the future for their counties and to advise the Commission on their findings and recommendations, an effort that involved many thousands of citizens in meetings held throughout North Carolina in 1982; and

Whereas, a Citizens Conference was held in Raleigh in December, 1982, at which the tentative findings and recommendations of the Commission on the Future of North Carolina were presented to and examined and commented on by several hundred participants from throughout the State; and

Whereas, the Commission has now filed its report with the Governor for transmission to the General Assembly and the citizens of North Carolina; and

Whereas, it is desirable that provision be made and action taken to carry out the recommendations of the Commission that are found worthy, and to

sustain the self-examination process that was begun with the Commission on the Future of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Governor is requested (a) to review the report and recommendations of the Commission on the Future of North Carolina, (b) to take such administrative actions pursuant to those recommendations as he finds to be consistent with the best interests of the State, and (c) to recommend to the General Assembly in 1983 and later years such legislation as he deems advisable to carry out those recommendations of the Commission that require new legislation and consistent with the best interests of the State.

Sec. 2. The Governor is requested to report to the General Assembly in 1985 and biennially thereafter on progress made during the preceding two years on the implementation of the recommendations of the Commission on the Future of North Carolina.

Sec. 3. The Governor is requested, not less often than every four years, beginning in 1986, to cause the 1983 report of the Commission on the Future of North Carolina to be reviewed and updated, to the end that it may be kept current as a statement of the opportunities and needs of our State.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

H. R. 1023 RESOLUTION 25

A JOINT RESOLUTION WELCOMING THE NATIONAL JUDICIAL COLLEGE TO NORTH CAROLINA AND EXPRESSING SUPPORT FOR THE ESTABLISHMENT OF A PERMANENT EASTERN LOCATION AT WAKE FOREST UNIVERSITY HONORING THE LATE DEAN WEATHERS.

Whereas, for the last twenty years the National Judicial College has been the leading judicial educational and training institution in the United States; and

Whereas, the National Judicial College has educated and trained more than twenty thousand judges at its only location on the University of Nevada-Reno campus; and

Whereas, the National Judicial College is undertaking a trial program at Wake Forest University to determine the feasibility of establishing an eastern location; and

Whereas, Carroll W. Weathers, who died on February 26, 1983, was the Dean of the Wake Forest University School of Law from 1950 until 1970 and the new location for the National Judicial College would be a fitting memorial honoring his memory; and

Whereas, his students and colleagues thought so much of Dean Weathers that the dedication of Volume 8, Number 2 of the Wake Forest Law Review stated:

"Most men have respect for honesty; Dean Weathers had a passion for it. Most men want to see justice done; Dean Weathers insisted upon it. Most men have a good purpose in what they do; Dean Weathers had a noble one. Most men are aware of the problems of their fellow man; Dean Weathers cared."; and

Whereas, the National Judicial College will start its first program at Wake Forest University in June of 1984;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina welcomes the National Judicial College to North Carolina and urges it to establish a permanent eastern location at Wake Forest University honoring the memory of Dean Carroll W. Weathers.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1983.

H. R. 1052 RESOLUTION 26

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF THOMAS JAMES BAKER, A FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Thomas James Baker was born in Wallace, North Carolina on October 9, 1920; and

Whereas, Thomas James Baker was the son of William Benjamin Baker of Onslow County and Harriet Robinson Southerland of Duplin County; and

Whereas, Thomas James Baker graduated from Wallace High School in 1938 and attended Kings Business College in Raleigh that next year; and

Whereas, Thomas James Baker then went into the oil business, serving as a petroleum products distributor; and

Whereas, Thomas James Baker married Dorothy Edgerton of Wayne County on October 18, 1947; and

Whereas, Thomas James Baker has two children, Dorothy Sue (Mrs. Robert Isaac) and Laura Fay (Mrs. Eddie Lochamy); and

Whereas, Thomas James Baker was a town commissioner of the Town of Wallace from 1945 to 1966, and was Mayor of Wallace from 1966 to 1970; and

Whereas, Thomas James Baker was a member of the North Carolina House of Representatives from 1970 through 1978, serving four terms with distinction, serving as chairman of a local government committee and the Committee on Banks and Banking; and

Whereas, Thomas James Baker was a member of the Wallace Masonic Lodge #595, the Wallace Lion's Club and was a Shriner, and was Man of the Year for the English-Brown Post No. 9161, Veterans of Foreign Wars in 1969; and

Whereas, Thomas James Baker was an active Baptist serving as a Sunday school teacher, and Deacon of the Wallace Baptist Church; and

Whereas, Thomas James Baker served the people of Wallace, the people of Duplin County, and the State of North Carolina with distinction in a life of public service; and

Whereas, Thomas James Baker died on January 19, 1981;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The North Carolina General Assembly honors the life and memory of Thomas James Baker, a former member of the House of Representatives.

Sec. 2. The Secretary of State shall send a certified copy of this resolution to the widow and daughters of Thomas James Baker.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1983.

H. B. 334 RESOLUTION 27

A JOINT RESOLUTION TO IMPROVE THE COMPETENCE OF FACULTY MEMBERS IN EDUCATIONAL METHODS IN THE UNIVERSITY, THE PRIVATE COLLEGES AND UNIVERSITIES AND IN THE PUBLIC SCHOOLS OF NORTH CAROLINA.

Whereas, the effectiveness of teachers in the public schools of North Carolina depends heavily upon the competence and ability of the faculty members in all approved college and university teacher education programs; and

Whereas, teaching competencies can be more effectively defined and developed by professionals with knowledge and experience pertinent to the contemporary public school classroom and through regular participation in teaching and learning;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Board of Governors of The University of North Carolina and the State Board of Education are encouraged to develop and implement experimental programs designed to improve the quality of the teaching in the public schools including exchanges among teachers in the public schools and university faculty members teaching courses in educational methods in constituent institutions of The University of North Carolina, and the faculty members in private colleges and universities having approved teacher education programs to participate in exchanges and other experimental programs.

Sec. 2. The Board of Governors and the State Board of Education shall report to the Committees on Education and the Committees on Higher Education of the Senate and the House of Representatives on the progress of this program at the meeting of the 1983 General Assembly, Second Session, 1984.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

H. R. 1154 RESOLUTION 28

A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE TO ACT ON CONFIRMATION OF APPOINTMENTS MADE BY THE GOVERNOR TO THE STATE PERSONNEL COMMISSION.

Whereas, under the provisions of G.S. 126-2 appointments made by the Governor to fill vacancies in the membership of the State Personnel Commission are subject to confirmation by the General Assembly; and

Whereas, vacancies will exist on the State Personnel Commission by reason of the expiration of terms; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate appointments to fill the anticipated vacancies;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The House of Representatives and the Senate shall meet in the House Chamber in joint session at 2:00 p.m. on Tuesday, June 14, 1983, for the purpose of voting on confirmation of the appointments of the Governor to fill the anticipated vacancies.

Sec. 2. In the joint session of the House of Representatives and the Senate for the purposes set out in Section 2 of this resolution, the roll of the House shall be called and the vote taken, then the roll of the Senate shall be called and the vote taken on the question of confirmation of each appointee, after which the vote in each house shall be tabulated and announced. Approval of a majority of those present and voting of each house shall be required for confirmation. Other proceedings in the joint session shall be governed by the Rules of the North Carolina House of Representatives insofar as those Rules are applicable.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1983.

S. R. 215 RESOLUTION 29

A JOINT RESOLUTION URGING CONGRESS TO OPPOSE THE SALE OF ANY NATIONAL FOREST SERVICE LAND IN NORTH CAROLINA.

Whereas, the United States Department of Agriculture has requested authority to sell as much as six million acres of National Forest Service land; and

Whereas, North Carolina has 1.25 million acres of national forests, and the proposal calls for sale of up to six percent (6%) of that total, or 71,358 acres; and

Whereas, land would be sold from each of this State's national forests: 1,908 acres from Croatan National Forest; 18,167 acres from Nantahala National Forest; 9,403 acres from Pisgah National Forest; and of the 46,767 acres in Uwharrie National Forest, all but 4,500 acres, virtually eradicating that preserve; and

Whereas, North Carolinians cherish their national forests and use them in increasing numbers; and

Whereas, these forests offer camping, fishing, hiking, swimming, picnicking, and many other recreational activities; and

Whereas, if this land is sold to private interests all these advantages may be taken from us; and

Whereas, private owners are under no obligation to maintain the lush forestation of these lands; and

Whereas, the federal government proposes to sell these lands to raise money; and

Whereas, the Forest Service already leases timber rights and has recently leased oil and gas exploration rights, sources of income that will vanish if the land is sold outright; and

Whereas, Lieutenant Governor Jimmy Green and Governor Jim Hunt have both publically stated opposition to the proposal; and

Whereas, this proposal may forbode greater and greater intrusions into federal recreational areas in North Carolina;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina General Assembly urges Congress to oppose the Department of Agriculture's proposal to sell National Forest Service land in North Carolina.

Sec. 2. The North Carolina General Assembly urges Congress to protect North Carolina's national forests so that our citizens may continue to enjoy and treasure these recreational preserves.

Sec. 3. The Secretary of State shall send certified copies of this resolution to all members of the North Carolina Congressional delegation, the Secretary of Agriculture, and the President.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1983.

S. R. 211 RESOLUTION 30

A JOINT RESOLUTION URGING THE UNITED STATES GOVERNMENT TO REFRAIN FROM OCEAN DISPOSAL OF DECOMMISSIONED NUCLEAR SUBMARINES OFF THE NORTH CAROLINA COAST.

Whereas, the Navy is searching for a safe disposal of approximately 100 defueled nuclear submarines; and

Whereas, one of the proposals that the Navy is most seriously considering is dumping these radioactive submarines in the Atlantic Ocean about 200 miles off the North Carolina coast; and

Whereas, scientific evidence now shows that species of marine life have been contaminated by radioactive materials dumped at sea and these species of marine life enter into the food chain and will be consumed by humans; and

Whereas, North Carolina's coastal economy is dependent upon clean and unpolluted water and beaches for commercial and sports fishing and tourism and recreational opportunities; and

Whereas, the State is vitally concerned about the health of its citizens; and

Whereas, the citizens of North Carolina have themselves placed a high priority on a clean and healthy environment as shown through a 1982 citizens' survey conducted by the Commission on the Future of North Carolina; and

Whereas, the radioactivity may have adverse health and environmental effects; and

Whereas, the dumping will almost surely have adverse psychological effects because our citizens have not been assured of the complete safety of the proposal and have a general fear and lack of understanding of radioactivity; and

Whereas, the Outer Banks Chamber of Commerce and many other groups, organizations and private citizens have joined in expressing great concern or opposition to the proposed dumping; and

Whereas, Jane Patterson, North Carolina Secretary of Administration, has stated that "it is the policy of the State of North Carolina to oppose the ocean dumping of nuclear submarines until a national ocean use policy has been developed with a consistent and complete regulatory system"; and

Whereas, Secretary Patterson has raised concerns about lack of adequate scientific data, lack of sufficient monitoring, and other inadequacies in the Navy's Environmental Impact Statement on the proposal; and

Whereas, because of safety considerations, the United States has not dumped radioactive wastes in the ocean since 1970; and

Whereas, Congress has banned ocean dumping of radioactive wastes until 1985; and

Whereas, these defueled submarines will continue to emit radioactivity into the ocean's waters for 30,000 years; and

Whereas, burying the submarines in the earth would permit better monitoring and easier retrieval if problems arose; and

Whereas, the General Assembly has great concern at this time about the Navy's plans to move forward with its proposal to dump these radioactive submarines in the Atlantic Ocean off the North Carolina coast;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina respectfully urges the Congress of the United States to direct the Secretary of the Navy to immediately halt all plans for the sinking of decommissioned nuclear submarines in the Atlantic Ocean off the coast of North Carolina.

Sec. 2. The General Assembly further urges Congress to insure that the United States Environmental Protection Agency, the United States Navy, and all other involved parties have the necessary, correct, and detailed information that is needed to reach a decision that will protect the health, safety, and welfare of all citizens of North Carolina and other coastal states that may be affected.

Sec. 3. The General Assembly of North Carolina respectfully urges the Secretary of the Navy to research fully the possibility of completely dismantling these submarines and utilizing land disposal areas for radioactive parts because land disposal would appear to provide a safer and more controlled and controllable disposal method with less chance of causing environmental damage, pollution problems, or adverse economic effects.

Sec. 4. The General Assembly urges Congress at the very least to consider immediately a comprehensive national ocean use policy with a complete regulatory system. Without such a policy, haphazard ocean dumpings may prove dangerous to persons and property.

Sec. 5. The General Assembly urges Congress to delay the further consideration of any ocean dumpings. Recent amendments to the Ocean Dumping Act ban dumping of low-level radioactive wastes in the oceans until 1985, so the proposed dumping cannot occur until then, but the General Assembly urges Congress to consider a permanent ban if health, safety, and economic considerations make such a ban wise.

Sec. 6. The Secretary of State shall send a certified copy of this resolution to every member of the congressional delegation from North Carolina, the Secretary of the United States Navy, the administrator of the Environmental Protection Agency, the Governor of North Carolina, and the North Carolina Secretary of Administration.

Sec. 7. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

H. R. 621 RESOLUTION 31

A JOINT RESOLUTION ENCOURAGING LOCAL BOARDS OF EDUCATION TO SCHEDULE TEACHER WORKDAYS WITHIN TEN DAYS OF ELECTION DAY ON ELECTION DAY.

Whereas, public school campuses are used as polling places in statewide general elections, statewide primary elections and municipal elections; and

Whereas, in many instances, students are in attendance on said election days; and

Whereas, traffic hazards resulting from the presence of voters on campus may endanger the health and safety of students;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. Local boards of education are encouraged to designate any day on which a statewide general election, a statewide primary election, or a municipal general election is scheduled to occur as a workday on which pupils are not required to attend school.

Sec. 2. County boards of election are requested to notify local boards of education in advance of the dates on which statewide general elections, statewide primary elections and municipal general elections will be held and to do so early enough to permit all local boards of education to incorporate the election days into the school calendar.

Sec. 3. A copy of this resolution shall be mailed to the superintendent and chairman of each local board of education and each election board chairman and supervisor in North Carolina for presentation to the individual boards of education for their consideration.

Sec. 4. This resolution is effective upon ratification and applies to school years beginning with the 1983-84 school year.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

S. R. 468 **RESOLUTION 32**

A JOINT RESOLUTION REQUESTING THE STATE'S CONGRESSIONAL DELEGATION TO ENCOURAGE THE UNITED STATES FISH AND WILDLIFE SERVICE TO ADJUST THE FEDERAL BIRD HUNTING SEASON LIMITATIONS SO AS TO RESTORE TO THE WATERFOWL HUNTERS OF NORTH CAROLINA THE HUNTING DAYS LOST BY REASON OF THE STATE'S PROHIBITION OF HUNTING WITH FIREARMS ON SUNDAY.

Whereas, it is the practice of the United States Fish and Wildlife Service to establish the outside dates within which the several states may select migratory bird hunting seasons; and

Whereas, the lengths of the seasons made available for selection by the several states are limited to maximum numbers of days which include all Sundays between the beginning and ending dates of the seasons so selected; and

Whereas, the State of North Carolina, in the exercise of its inherent power, and recognizing the wishes of its citizens, has long prohibited hunting with firearms on Sunday; and

Whereas, the conflict between the federal practice and the State law results in an annual loss to the hunters of North Carolina of approximately seven migratory bird hunting days as compared with the hunters of other states in which migratory bird hunting is permitted on Sundays; and

Whereas, the United States Fish and Wildlife Service has been unreceptive to requests from this and other states in which Sunday hunting is prohibited to adjust the options made available for selection by the states so as to equalize as nearly as practicable the number of migratory bird hunting days available to the hunters of the several states;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina General Assembly requests that the members of the State's delegations to the United States Senate and to the United States House of Representatives take such action as they may deem most effectual to encourage the United States Fish and Wildlife Service to adjust the season options made available to the several states to the end that the hunters in those states in which hunting migratory birds on Sundays is prohibited may be afforded numbers of hunting days equal to those afforded to hunters in those states in which the hunting of migratory birds on Sunday is permitted.

Sec. 2. The Secretary of State shall transmit a certified copy of this resolution to each member of the State's delegations to the United States Senate and the United States House of Representatives.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.

H. R. 988 RESOLUTION 33

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE REGULATION OF NONPUBLIC AND PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS.

Whereas, it has been the legislative policy of this State since at least 1923 to require that nonpublic educational institutions seeking to confer degrees in North Carolina obtain a license therefor; and

Whereas, in recent years new kinds of educational programs and new types of organizational structures have begun to be used by institutions seeking to confer degrees; and

Whereas, in recent months news media across the nation have reported abuse of the degree-granting process and fraud in the conduct of degree programs of institutions of higher education; and

Whereas, since 1923 there has been no thorough legislative review of the provisions of G.S. 116-15, the statute by which licensure to confer degrees is required;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is authorized to study the regulation of nonpublic and public post-secondary educational institutions which engage in "post-secondary degree activity" as defined in HB 988 introduced in the 1983 Session of the General Assembly. The Commission may make an interim report to the 1984 Session of the General Assembly and shall make a final report to the 1985 Session of the General Assembly.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1983.

S. R. 562 RESOLUTION 34

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF FATE JAMES BEAL.

Whereas, Fate James Beal was born on June 17, 1909, in Lincoln County; and

Whereas, Fate James Beal was educated in the Lincoln County schools, at Warren Wilson College, at Lees-McRae College, and at Wake Forest College from which he received his law degree in 1939; and

Whereas, Fate James Beal first practiced law in Asheboro before moving his law office to Lenoir in 1943 where he continued to practice for his lifetime; and

Whereas, Fate James Beal served his county and State as a Judge of the Caldwell County Recorders Court, as Judge of the District Court, and from 1967 until 1971 as Special Judge of the Superior Court after being appointed by Governor Dan Moore; and

Whereas, Fate James Beal served his community from 1971 until his death as a practicing attorney, a member of the Kiwanis Club, a member of the Masonic Lodge, where he was a 32nd Degree Mason, and as a member of the North Carolina and American Bar Associations; and

Whereas, Fate James Beal died on September 3, 1978, in Lenoir; and

Whereas, Fate James Beal was survived by his wife, Faye Smith Beal; a son, David J. Beal, Clerk of the Superior Court of Surry County; and a son, Beverly T. Beal, an attorney practicing in Lenoir;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina expresses its deep appreciation for the life and service of Fate James Beal.

Sec. 2. The General Assembly of North Carolina extends its deepest sympathy to the family and friends of Fate James Beal for the loss of a beloved husband, father, and friend.

Sec. 3. This resolution shall become part of the public records of this Session of the General Assembly and a copy of it shall be certified by the Secretary of State and transmitted to the family of Fate James Beal.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1983.

S. R. 584 RESOLUTION 35

A JOINT RESOLUTION CALLING UPON THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE TO APPOINT A LEGISLATIVE DELEGATION TO ATTEND CEREMONIES IN GREAT BRITAIN CELEBRATING THE FOUR HUNDREDTH ANNIVERSARY OF THE ROANOKE VOYAGES.

Whereas, Sir Walter Raleigh sent his first exploring expedition from Plymouth, England, for the New World on April 27, 1584; and

Whereas, the America's Four Hundredth Anniversary Committee of the North Carolina Department of Cultural Resources has scheduled as its initial anniversary event a celebration on April 27, 1984, at Plymouth, England; and

Whereas, a marker will be dedicated in Plymouth Harbor and other events will be held in Devonshire, home of many of the early Roanoke Island colonists; and

Whereas, an exhibition including 18 of John White's watercolors painted in this State 400 years ago, and maps, books, prints, and other objects that belonged to Raleigh, Sir Francis Drake, Queen Elizabeth, and others will open in London's British Library as part of the April 1984 celebration; and

Whereas, this event in Great Britain will serve as the send-off for all other activities planned for the four hundredth anniversary celebration; and

Whereas, the General Assembly, which established the America's Four Hundredth Anniversary Committee during the 1973 legislative session, wishes to support the Committee and join in the celebration of the anniversary;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina joins in the celebration of the four hundredth anniversary of the initial exploratory voyages to Roanoke Island.

Sec. 2. The Speaker of the House of Representatives and the Lieutenant Governor shall appoint a delegation from the membership of the General Assembly to attend the events scheduled for April 1984 in Great Britain. The

appointees shall serve as the official representatives of the General Assembly to this event but shall not be reimbursed by the State for their traveling expenses incurred in attending.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1983.

S. R. 586 **RESOLUTION 36**

A JOINT RESOLUTION HONORING LEE BURRUS NICHOLS, A FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Lee Burrus Nichols was born in Sparta, North Carolina, on November 29, 1892, and died at the age of 90 in Andrews, North Carolina; and

Whereas, Lee Burrus Nichols served as a sergeant in the Eighty-first "Wild Cat" Division of the United States Army from 1917 to 1919; and

Whereas, Lee Burrus Nichols studied at the University of Besancon in France while overseas, earned an A.B. degree from Davidson College in 1920, and studied education in the graduate school of the University of California at Berkeley and The University of North Carolina; and

Whereas, Lee Burrus Nichols taught and served as principal of Andrews High School at Andrews in Cherokee County from 1920 to 1927; and

Whereas, Lee Burrus Nichols entered the merchandising business and founded Nichols Department Store, which became one of the most popular businesses in the area; and

Whereas, Lee Burrus Nichols was active throughout his life in civic and community affairs, serving on the Andrews Town Council from 1926 to 1928, as chairman of the Cherokee County Board of Commissioners from 1932 to 1934, as a member of the Andrews School Board from 1938 to 1948, and as chairman of the Town and Regional Library, and was a member of the Rotary Club and the American Legion; and

Whereas, Lee Burrus Nichols was an active church member, serving as a Presbyterian elder for 57 years and as a Sunday School superintendent; and

Whereas, Lee Burrus Nichols served as a member of the North Carolina Senate from 1949 to 1951, representing the thirty-third district;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina General Assembly expresses its high regard for the life and service of Lee Burrus Nichols and mourns the loss of such a distinguished citizen.

Sec. 2. The Secretary of State shall send a certified copy of this resolution to the family of Lee Burrus Nichols.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1983.

H. R. 1135 RESOLUTION 37

A JOINT RESOLUTION TO ESTABLISH THE PROCEDURE FOR NOMINATING AND ELECTING MEMBERS OF THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The following procedures for nominating and electing members of the Board of Governors of The University of North Carolina are adopted:

I. COMMITTEE RESPONSIBILITIES.

1. It is the duty of the University Board of Governors Nominating Committee in the House of Representatives to choose at least two candidates for each opening in each category of seats on the Board of Governors of The University of North Carolina to which the House of Representatives is to elect members. It is the duty of the Committee on Rules and Operation of the Senate to choose at least two candidates for each opening in each category of seats on the Board of Governors of The University of North Carolina to which the Senate is to elect members. The committees shall act separately for the purpose of carrying out these duties.

2. The Senate shall vote only upon those persons chosen as candidates for nomination in the eight-year at-large category by the Committee on Rules and Operation of the Senate, or proposed as candidates from the floor of the joint session of the Senate and House of Representatives. The House of Representatives shall vote only upon those persons chosen as candidates for nomination in the eight-year at-large category by the University Board of Governors Nominating Committee in the House of Representatives, or proposed as candidates from the floor of the joint session of the Senate and House of Representatives.

3. The Committee on Rules and Operation of the Senate shall receive suggestions of persons to be considered for election to the University Board of Governors through June 28, 1983. In order for a person to have standing to be considered as a candidate for nomination by the Senate Committee, that person must be formally proposed as a candidate for nomination by a member of the Senate Committee.

4. The University Board of Governors Nominating Committee in the House of Representatives shall receive suggestions of persons to be considered for election to the University Board of Governors through June 28, 1983. Any person proposed in writing by a member of the House of Representatives to the Chairman of the University Board of Governors Nominating Committee shall be considered as a candidate for nomination by the House Committee.

5. After June 28, 1983, the Senate and House committees shall meet separately and receive from members of each committee formal proposals for nomination. A committee member may propose candidates only for the categories available for election by the house of which he is a member.

6. The House and Senate committees shall screen the proposed candidates for nomination as to their qualifications and background, and may interview each one to make sure that suitable candidates for election are nominated for each category and that each is willing and able to serve and has no statutory disability.

7. There is no limit on the number of persons a Senator may propose as candidates. When the proposing process is closed, the Committee on Rules and Operation of the Senate shall list all proposed candidates by category and shall vote "aye" or "no" on each proposed candidate for nomination and listed on the Senate ballot. A vote of a majority of those members of the Senate Committee present and voting shall constitute one a candidate for nomination. An individual cannot be a candidate for nomination in more than one category.

8. A Representative may propose only as many persons as candidates as there are places to be filled by the House. When the proposing process is closed, the University Board of Governors Committee in the House of Representatives shall list all proposed candidates by category. The House Committee shall vote to determine whether each person considered shall be placed on the House ballot as a "Recommended Nominee" or a "Nominee". A majority vote of the members of the House Committee who are present shall constitute one a "Recommended Nominee" or a "Nominee" as the Committee shall determine. An individual cannot be a candidate for nomination in more than one category.

9. Committee candidates shall be placed before and recommended to a joint session of the House of Representatives and Senate.

II. JOINT SESSION—SELECTION OF NOMINEES.

1. The Senate and House of Representatives shall meet in joint session at 2:00 p.m. on July 5, 1983, for the purpose of nominating persons for election to the Board of Governors of The University of North Carolina. In the joint session of the Senate and House of Representatives, committee nominations shall be made first and then the floor shall be opened for the nomination by any Senator or Representative of persons for election to the Board of Governors. Nominees shall be grouped into the following categories, as required by G.S. 116-6:

(1) Women nominees for eight-year term,
(2) Minority race nominees for eight-year term,
(3) Minority party nominees for eight-year term,
(4) At-large nominees for eight-year term, Senate
(5) At-large nominees for eight-year term, House of Representatives.

2. In proposing a nominee, the nominator shall state the category for which the nominee is being proposed. An individual cannot be proposed in more than one category.

3. There is no limit on the number of persons one Senator may propose as nominees and no limit on the categories for which he may propose persons in the joint session. In the joint session, a Representative may propose as nominees only as many persons as there are positions to be filled in each category.

4. Names shall continue to be received until the number of nominees is at least twice the number of places to be filled in each category, that is, there shall be a minimum of two women, two Republicans, two racial minority members, six at-large nominees (Senate), and four at-large nominees (House of Representatives) all for eight-year terms.

5. No vote shall be taken on the nominees in the joint session. When the names of all candidates for nomination have been received, the joint session shall be dissolved.

6. The Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the Committee on Rules and Operation of the Senate shall contact all nominees and

ascertain whether they would serve if elected. Any nominee may withdraw his name without the approval of the person who proposed his name. If withdrawals reduce the number of nominees below twice the number of places to be filled in any category, another joint session of the Senate and House shall be held to receive sufficient additional nominations in that category.

III. ELECTIONS IN THE SENATE.

1. A ballot shall be prepared under the supervision of the Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the Committee on Rules and Operation of the Senate for the use of the Senate.

2. The ballot shall list only those nominees proposed by the Committee on Rules and Operation of the Senate who have consented to run and all those nominees proposed from the floor in the joint session who have consented to run and for whom the Senate is entitled to vote. Their names shall be arranged (a) by category and (b) within each category, alphabetically by surname.

3. The Senate shall hold its election at the beginning of the daily session on July 6, 1983. Before the voting begins, the President of the Senate shall explain the voting rules, which are:

(i) No nominations will be received from the floor.

(ii) In order to be chosen, a nominee must receive the votes of a majority of all members present and voting for his category.

(iii) Each member present and voting shall vote for as many nominees as there are positions to be filled in each category, and any ballot not so marked shall be deemed void as to that category.

(iv) When a nominee for a category containing a single position is to be chosen and no candidate receives a majority of the votes cast for all the candidates in that category, a runoff shall be conducted between the person receiving the highest and the person receiving the second highest number of votes cast.

(v) When fewer than three nominees in the eight-year at-large category receive the votes of a majority of all members present and voting for positions in that category, a runoff to fill the open position or positions shall be conducted among the nominees receiving the highest number of votes cast, and the number of nominees eligible to be voted on in the runoff shall be twice the number of positions to be filled.

(For the purpose of illustration, if when the first ballot is taken, no nominee receives a majority, then the top six vote-getters will be in the runoff, because there must be twice the number of persons in the runoff that there are positions to be filled and the Senate has three such positions to fill. If one person receives the votes of a majority of all members present and voting for that category, then he is elected and a runoff will be held among the four next highest vote-getters. This is so because there are two positions remaining to be filled and there must be twice the number of nominees in the runoff that there are positions available, therefore four. If two people receive the votes of a majority of the members present and voting, both will be elected and a runoff will be held between the two next highest vote-getters, because only one position remains to be filled.)

(vi) If there is a tie for the last position between two nominees who are eligible for the next runoff, both nominees will be included in the next runoff balloting, even though there would thereby be more than two nominees per available position on the Board of Governors.

(vii) When more than three nominees in the eight-year at-large category receive the votes of a majority of all members present and voting for positions in that category, then the three nominees receiving the highest number of votes shall be deemed to have been chosen.

4. The Senators shall proceed to mark their ballots for the following: Three persons in the at-large category for eight-year terms, and one person in the minority party category for an eight-year term.

5. The Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the Committee on Rules and Operation of the Senate shall be responsible for canvassing the vote and declaring the results thereof. The number of votes received by each candidate shall not be released.

6. When the Chairman of the Committee on Rules and Operation of the Senate and the Chairman of the University Board of Governors Nominating Committee in the House of Representatives have determined that the Senate has chosen one member of the Board of Governors from the minority party category for a term of eight years and three members of the Board of Governors from the at-large category for a term of eight years, the Chairman of the Committee on Rules and Operation of the Senate shall make a motion for the simultaneous election of those four persons by the Senate to the indicated positions and for the indicated terms. The roll of the Senate shall then be called electronically. If a majority of those voting shall vote "aye" the persons whose names appear on the list shall be declared to have been elected.

7. The results of the election in the Senate shall then be sent by Special Messenger to the House of Representatives.

IV. ELECTIONS IN THE HOUSE OF REPRESENTATIVES.

1. A ballot shall be prepared under the supervision of the Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the Committee on Rules and Operation of the Senate for the use of the House of Representatives.

2. The ballot shall list only those nominees proposed by the University Board of Governors Nominating Committee in the House of Representatives who have consented to run and all those nominees proposed from the floor in the joint session who have consented to run and for whom the House is entitled to vote. Their names shall be arranged (a) by category and (b) within each category, alphabetically by surname. Each person whose name appears on the ballot shall be thereby designated as a "Recommended Nominee" or "Nominee" as the University Board of Governors Nominating Committee in the House of Representatives shall have determined.

3. The House of Representatives shall hold its election immediately after being notified by Special Messenger that the Senate has completed its election. Before the voting begins, the Speaker of the House of Representatives shall explain the voting rules, which are:

(i) No nominations will be received from the floor.

(ii) In order to be chosen, a nominee must receive the votes of a majority of all members present and voting for his category.

(iii) Each member present and voting shall vote for as many nominees as there are positions to be filled in each category, and any ballot not so marked shall be deemed void as to that category.

(iv) When a nominee for a category containing a single position is to be chosen and no candidate receives a majority of the votes cast for all the candidates in that category, a runoff shall be conducted between the person receiving the highest and the person receiving the second highest number of votes cast.

(v) When fewer than two nominees in the eight-year at-large category receive the votes of a majority of all members present and voting for positions in that category, a runoff to fill the open position or positions shall be conducted among the nominees receiving the highest number of votes cast, and the number of nominees eligible to be voted on in the runoff shall be twice the number of positions to be filled.

(For the purpose of illustration, if when the first ballot is taken, no nominee receives a majority, then the top four vote-getters will be in the runoff, because there must be twice the number of persons in the runoff that there are positions to be filled and the House has two such positions to fill. If one person receives the votes of a majority of all members present and voting in that category, then he is elected and a runoff will be held between the two next highest vote-getters. This is so because there is one position remaining to be filled and there must be twice the number of nominees in the runoff that there are positions available, therefore two.)

(vi) If there is a tie for the last position between two nominees who are eligible for the next runoff, both nominees will be included in the next runoff balloting, even though there would thereby be more than two nominees per available position on the Board of Governors.

(vii) When more than two nominees in the eight-year at-large category receive the votes of a majority of all members present and voting for positions in that category, then the two nominees receiving the highest number of votes shall be deemed to have been chosen.

4. The members of the House of Representatives shall proceed to mark their ballots for the following:

Two persons in the at-large category for eight-year term,
One person in the minority race category for an eight-year term, and
One person in the women's category for an eight-year term.

5. The Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the Committee on Rules and Operation of the Senate shall be responsible for canvassing the vote and declaring the results thereof. The number of votes received by each candidate shall not be released.

6. When the Chairman of the Committee on Rules and Operation of the Senate and the Chairman of the University Board of Governors Nominating Committee in the House of Representatives have determined that the House of Representatives has chosen two members of the Board of Governors from the at-large category for a term of eight years, one member of the Board of Governors from the minority race category for a term of eight years, and one member of the Board of Governors from the women's category for an eight-year

term, the Chairman of the University Board of Governors Nominating Committee in the House of Representatives shall make a motion for the simultaneous election of those four persons by the House of Representatives to the indicated positions and for the indicated terms. The roll of the House shall then be called electronically. If a majority of those voting shall vote "aye", the persons whose names appear on the list shall be declared to have been elected.

7. The results of the election in the House of Representatives shall then be sent by Special Messenger to the Senate.

V. NOTIFICATION OF ELECTION RESULTS.

1. When the election process is complete, the Chairman of the Committee on Rules and Operation of the Senate and the Chairman of the University Board of Governors Nominating Committee in the House of Representatives shall notify the Secretary of the Board of Governors of The University of North Carolina of the names of the persons elected by the General Assembly and the category for which and term for which each of them was elected.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1983.

H. R. 1184 RESOLUTION 38

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MARION D. THORPE.

Whereas, Dr. Marion Dennis Thorpe, who died on April 28, 1983, devoted his life to the enrichment of countless other lives, as an educator, as a reconciler of racial differences, and as an exemplary human being, it therefore is fit and proper that the General Assembly acknowledge the eminent contributions of this native son to the State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. Dr. Thorpe cared passionately about the education of young people of all races. He cherished knowledge and deplored ignorance. As a black man, he was especially sensitive to the role of education in transcending social and economic disadvantage. His will be an enduring example of the value of education, for generations to come.

Dr. Thorpe built bridges between black people and white people. He did so with a rare combination of grace, patience, sensitivity, and courage. The bridges he built will last, because they were constructed with great care.

Dr. Thorpe championed human rights. He imparted substance, through his own attitudes, beliefs, and conduct, to the proposition that each human life is precious. As a black man, he worked tirelessly to promote meaningful equality of opportunity for all people, without reference to race. His influence changed minds and hearts, and those changes will persist.

Sec. 2. As the chief executive officer of Elizabeth City State University, from 1968 until his death, Marion Thorpe infused that special institution with a new awareness of mission, with a justified sense of pride, and with an enhanced regard for quality. With forthrightness, intelligence, and perserverance, he successfully led Elizabeth City State through three major transitions. First, he superintended the real beginning and the successful fruition of efforts to achieve substantial and constructive racial integration of

what formerly had been a segregated public institution established for black citizens; he did so in a manner that preserved the proud heritage of that school, while rendering it a highly relevant and vital force in the lives of all of the people of that region of our State. Second, he led his institution into the family of institutions which today comprise the multi-campus University of North Carolina; he did so in a spirit of genuine cooperation, and succeeded to an extraordinary degree in maximizing the benefits of that new administrative structure, while protecting the distinctive identity of the school. Third, he encouraged and shepherded the major expansion and diversification of the academic program of Elizabeth City State University, thereby converting it from a school of narrow and limited focus to one which now can offer its students a broad array of enriching academic opportunities.

Sec. 3. Marion Thorpe was, above all, a person who cared genuinely about the plight of his fellow citizens, and he devoted his talents and energies to their betterment within a professional context that can and will have lasting impact for generations to come. This good man was a true servant of humankind.

Sec. 4. The General Assembly expresses its appreciation for the life, the service, and the example of Dr. Marion Dennis Thorpe, and directs that a copy of this Resolution be spread upon the minutes of both the House of Representatives and the Senate, and that copies of this Resolution be duly certified by the Secretary of State and presented to his loving wife, Lula Glenn, and to each of his children, Pamela Monique and Marion Dennis.

Sec. 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1983.

S. R. 655 RESOLUTION 39

A JOINT RESOLUTION TO CHANGE THE DATE OF NOMINATION AND ELECTION OF THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. Section 1.II.1. of Resolution 37, Session Laws of 1983, is amended by deleting "July 5, 1983", and inserting in lieu thereof "July 6, 1983".

Sec. 2. Sec. 1.III.3. of Resolution 37, Session Laws of 1983, is amended by deleting "July 6, 1983", and inserting in lieu thereof "July 7, 1983".

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.

H. R. 1289 **RESOLUTION 40**

A JOINT RESOLUTION HONORING THE LIFE AND WORK OF MARION ALLEN WRIGHT.

Whereas, Marion Allen Wright was born in 1894 in Edgefield County, South Carolina, and in 1947 retired from a career in law and public service in that state and became a resident of Linville Falls, North Carolina; and

Whereas, over the following 35 years Mr. Wright applied his abundant talents and energy to improving the quality of life and justice in his adoptive State; and

Whereas, after teaching during the 1914-1915 school year in the public schools of Winston-Salem, Mr. Wright returned to South Carolina and in 1919 earned his degree from the University of South Carolina Law School, and thereafter conducted a successful corporate law practice in Conway and Myrtle Beach; and

Whereas, Mr. Wright devoted himself to public service as chairman of the South Carolina Library board, president of the South Carolina Citizens Library Association, a member of the South Carolina Commission on Adult Education, and president of the USC Law Alumni Association and Graduate School Association; and

Whereas, Mr. Wright served as president of the Southern Regional Council in Atlanta, Georgia, and as a member of the National Association for the Advancement of Colored People, the American Academy of Social and Political Science, and the national board of the American Civil Liberties Union, and as a founding member of the North Carolina Civil Liberties Union; and

Whereas, Mr. Wright served as a member of North Carolina's first State advisory committee to the United States Civil Rights Commission; and

Whereas, having worked as a reporter for the Columbia Record while an undergraduate at the University of South Carolina between 1912 and 1919, and having been assigned the unhappy task of witnessing that state's first 16 executions by electrocution, and having thereby acquired a passionate, unflagging repulsion for capital punishment, Mr. Wright later founded and served as first president of North Carolinians Against the Death Penalty and in that capacity strove tirelessly to defend the sanctity of human life; and

Whereas, Mr. Wright further distinguished himself as the author of scholarly articles published in the law journals of The University of North Carolina, the University of South Carolina, and Wayne State University and in the American Law Library Association Journal; and

Whereas, a sense of Mr. Wright's extraordinary ability as a public speaker is preserved in a volume titled "Human Rights Odyssey", published in 1978 at Durham, North Carolina; and

Whereas, Marion Wright was a lifelong champion of public libraries, public education for all, racial equality, civil liberties, and human rights; and

Whereas, his service to the profession of law and to the citizens of two states, the region, and the nation bestowed great distinction on the State of North Carolina; and

Whereas, Marion Wright died on February 14, 1983, at Crossnore, North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina honors and affirms its high regard for the life of service rendered by Mr. Marion Allen Wright to his nation, his region, and to North Carolina, and mourns the loss of one of North Carolina's truly distinguished citizens.

Sec. 2. The Secretary of State is directed to transmit a certified copy of this resolution to Mrs. Alice Spearman Wright of Linville Falls, North Carolina.

Sec. 3. The Secretary of State is directed to transmit certified copies of this resolution to the Speaker of the House of Representatives and the President of the Senate of the State of South Carolina.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of July, 1983.

S. R. 409 RESOLUTION 41

A JOINT RESOLUTION HONORING THE BRAVE LIFE OF ANTHONY CLYDE CORN.

Whereas, Anthony Clyde Corn, "Tony" to those who knew him, was born twenty years ago, graduated from East Henderson High School in 1980, and lived in Edneyville; and

Whereas, on August 8, 1982, Tony Corn was fatally wounded in a Henderson County holdup; and

Whereas, during that holdup Tony Corn demonstrated the kind of courage that only true heroes have by calmly shielding a friend, Sherry Tilson, throughout the robbery, and did not panic but continued to shield her when the robbers started shooting; and

Whereas, Tony Corn was shot in the back with a 410 gauge shotgun by one of the robbers while he clutched Sherry Tilson between himself and a car; and

Whereas, when Tony Corn fell, Sherry Tilson fell and "played dead" and thereby escaped being murdered herself; and

Whereas, by his calm and deliberate bravery throughout the terrifying experience, he saved the life of Sherry Tilson; and

Whereas, in a time of low morale and depressed economy, Tony Corn showed us what goodness and strength of human spirit are all about;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina General Assembly recognizes the bravery and heroism of Anthony Clyde "Tony" Corn and praises his courageous actions on the evening of August 8, 1982.

Sec. 2. The General Assembly offers its deepest sympathy to the family of Tony Corn.

Sec. 3. The Secretary of State shall send certified copies of this resolution to the family of Tony Corn.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of July, 1983.

S. R. 113 RESOLUTION 42

A JOINT RESOLUTION URGING PUBLIC ACCESS FOR COROLLA AND THE CURRITUCK OUTER BANKS.

Whereas, it is in the public interest to have public access to all communities in the State of North Carolina so as to provide essential personal and commercial services to their residents; and

Whereas, the community of Corolla and the surrounding areas of the Currituck Outer Banks are without such public access, having access only at the sufferance of private land owners or developers who own property between these areas and the nearest public roads; and

Whereas, there is located on the Currituck Outer Banks many significant natural resources that belong to all the people of North Carolina, which resources include public beaches and public waters, and public access will make these public regions more readily available to everyone; and

Whereas, it is the responsibility of the North Carolina Department of Transportation to provide a system of public roads and highways to serve all the citizens of the State of North Carolina;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina Department of Transportation is urged to immediately begin development of a plan and thereafter to begin implementation of that plan, to provide public access to the community of Corolla and to the surrounding areas of the Currituck Outer Banks and it is further urged to consider, among other alternatives, the acquisition of the right-of-way and improvements of the existing privately owned road and the construction of a bridge between the mainland and the Currituck Outer Banks.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1983.

S. R. 585 RESOLUTION 43

A JOINT RESOLUTION RECOGNIZING AND CLARIFYING THE POLICY OF THIS STATE TO AFFORD THE OPPORTUNITY FOR MENTALLY AND DEVELOPMENTALLY DISABLED PERSONS FOR ADEQUATE COMMUNITY SUPPORT SERVICES.

Whereas, mentally and developmentally disabled persons can live enhanced lives in normalized community settings if provided needed support;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. It is the policy of this State to provide the needed support for mentally and developmentally disabled persons to live enhanced lives in normalized community settings.

Sec. 2. A normalized setting is one which lets a person live as close to a normal life as possible by making available to the person patterns, conditions, and activities of everyday life which are as close as possible to the norm and patterns of mainstream society.

Sec. 3. A community setting is one which enables a person to participate in the life of his or her local community to the greatest extent possible.

Sec. 4. Needed support consists of those services designed to enable a mentally or developmentally disabled person to strive meaningfully toward his or her potential throughout life.

Sec. 5. The determination of needed support must be geared to the uniqueness of the individual.

Sec. 6. The provision of adequate support for mentally disabled and developmentally disabled people requires a comprehensive array of community-based services throughout the State.

Sec. 7. Support services should be designed and provided so as to maximize the individual mentally or developmentally disabled person's dignity and freedom of choice.

Sec. 8. The opportunity for mentally and developmentally disabled persons to live in such normalized community settings with such needed support should be assured by the State.

Sec. 9. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1983.

H. R. 1360 RESOLUTION 44

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN COLTRANE.

Whereas, John Coltrane was born in Hamlet, Richmond County, North Carolina, on September 23, 1926; and

Whereas, he moved at the age of three months with his family to High Point, North Carolina; and

Whereas, John Coltrane attended William Penn High School in High Point, a school for blacks founded by the Quakers; and

Whereas, when John Coltrane was a young man he was exposed to the religious music of the southern African-American church, and through spirituals and other church music first learned of the traditions and emotions of his culture; and

Whereas, John Coltrane lived with and learned much from his maternal grandfather, the Rev. William Blair, an early champion of civil rights in North Carolina; and

Whereas, after finishing high school in 1944, John Coltrane moved to Philadelphia to live with his mother and studied music at the Ornstein School of Music and the Granoff Studios; and

Whereas, after serving in the United States Navy, John Coltrane joined the Eddie "Cleanhead" Vinson band on tour from 1947 until being hired by Dizzy Gillespie in 1949; and

Whereas, John Coltrane joined the Miles Davis Quintet in 1955 and was instrumental in such classic recordings of jazz as "Kind of Blue", "'Round About Midnight", and "Milestones"; and

Whereas, after leaving Miles Davis, John Coltrane performed at the Five Spot in New York with Thelonious Monk in the summer and fall of 1957 in sessions which electrified jazz musicians everywhere, and revolutionized American music; and

Whereas, John Coltrane formed, with McCoy Tyner, Jimmy Garrison, and Elvin Jones, the most influential jazz group of the 1960's; and

Whereas, John Coltrane continued to develop his "sheets of sound" technique to include the musical influences and cultures of Africa and the Far East; and

Whereas, John Coltrane was able to continue to explore himself and his music while creating new understandings of jazz in his many followers; and

Whereas, his talent and sensitivity allowed him to express his outrage over the bombing deaths in 1963 of three young black girls in Montgomery so poignantly in his composition "Alabama"; and

Whereas, John Coltrane has enriched our culture immeasurably with such classics of jazz as "Aisha", "Body and Soul", "A Love Supreme", "Giant Steps", "Syeeda's Song Flute", "Alabama", "Naima", and many more; and

Whereas, John Coltrane continues to inspire countless musicians and listeners with the beauty of his music; and

Whereas, the Assembly of the California State Legislature unanimously adopted a resolution of tribute and regret on his death on July 17, 1967, in honor of a man they termed "this musical genius"; and

Whereas, the music of 'Trane added a complex beauty to a most complex age; and

Whereas, John Coltrane's faith and spirit is expressed in his writing: "God breathes through us so completely - so gently we hardly feel it - yet, it is our everything.";

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina expresses its tribute for the life and accomplishments of this great native son and for the lasting legacy of his music and his spirit.

Sec. 2. This resolution shall become a part of the public records of this session of the General Assembly.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1983.

H. R. 1385 RESOLUTION 45

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CLAUDE DEBRUHL.

Whereas, Claude DeBruhl was born in Madison County, January 5, 1915, the son of William LeRoy and Levasta Reece DeBruhl; and

Whereas, Claude DeBruhl attended the public schools of Buncombe County, graduated from Woodfin High School, graduated from Asheville-Biltmore College which is now the University of North Carolina at Asheville, attended Lenoir Rhyne College, graduated from Love Law School and graduated from the Appraisal School of the University of Georgia; and

Whereas, Claude DeBruhl graduated from "The Annapolis of the Air" at Pensacola, Florida, as a naval officer, served as an aviator in the Atlantic and Pacific Theaters in World War II, and was honorably discharged as a Commander; and

Whereas, Claude DeBruhl was president of Claude DeBruhl Agency, Inc. - Real Estate, Insurance, Bonds, and Appraisers; was president of Allied Publishers, Inc. - Newspaper Publishers; was president of West Asheville Construction Company and was a land developer who supervised the construction of over 500 homes and the development of complete subdivisions; and

Whereas, Claude DeBruhl was very active in professional organizations as a member of local, State and National Boards of Realtors, as a member of the local, State and National Home Builders Association, as the president of the Western North Carolina Home Builders Association, 1969-70, and as a member and State Director of the local, State and National Association of Independent Fee Appraisers; and

Whereas, Claude DeBruhl worked unselfishly for the betterment of his community as a member of many fraternal organizations including the Fraternal Order of Eagles, the B.P.O. Elks, the Loyal Order of Moose, the Oasis Temple and Asheville Consistory Shrine and the Blackmer Masonic Lodge 170, as a 32nd Degree Scottish Rite Mason, as a member of the local school committee, as a scoutmaster, as a president of the West Asheville Kiwanis Club, as a member of the Asheville Chamber of Commerce and as a member of the West Asheville Business Association; and

Whereas, Claude DeBruhl served with great honor and distinction in the North Carolina General Assembly in 1969, 1971, 1973, 1975 and 1977, where he served on all major committees; and

Whereas, Claude DeBruhl was devoted to his alma mater, the University of North Carolina at Asheville, he was president of its Alumni Association, and while in the General Assembly, he was instrumental in its becoming a State-supported University; and

Whereas, Claude DeBruhl was in the forefront of all activity for veterans and the American Legion, he was awarded a plaque for "Outstanding Services Rendered" to disabled American veterans in 1965, 1966 and 1967, he was a member and commander of the West Asheville American Legion, he was a life member and department commander of AMVETS, he was a member and post and district commander of DAV, he was a member and legislative officer of VFW, he was a commander of the North Carolina Veterans Council and he was attending a meeting of AMVETS as its National Finance Officer when he died; and

Whereas, Claude DeBruhl, as a member and chairman of the Military and Veterans Officers Committee of the House of Representatives, continued his work for veteran's and was proud to say he never lost a veterans bill; and

Whereas, Claude DeBruhl is remembered by all who knew him as a man devoted to his family, to his church and to public service; and

Whereas, the General Assembly wishes to honor the memory of Claude DeBruhl and to express its sympathy to his widow, Revonda Miller DeBruhl and his two sons, Claude Michael DeBruhl and William Patrick DeBruhl;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina honors the memory of Claude DeBruhl and expresses the deep gratitude and appreciation

of this State and its citizens, particularly the people of Western North Carolina, for his life and service to North Carolina.

Sec. 2. The General Assembly of North Carolina expresses its deep sorrow to the family and friends of Claude DeBruhl for the loss of a beloved husband and father and a true friend.

Sec. 3. A certified copy of this resolution shall be transmitted by the Secretary of State to the family of Claude DeBruhl.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of July, 1983.

H. R. 1411 RESOLUTION 46

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JULIAN HAWLEY POOLE, A FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Julian Hawley Poole was born in Montgomery County on March 29, 1890, one of nine children of Hartwell Spain Poole and Sarah Ann McLeod Poole; and

Whereas, Julian Hawley Poole graduated from Biscoe High School in 1913, and obtained a B.S. degree in agriculture from North Carolina College of Agriculture and Mechanical Arts (now North Carolina State University) in 1917, where he was a member of the College band; and

Whereas, Julian Hawley Poole was a second lieutenant beginning in 1917, and attained the rank of first lieutenant in the junior reserve corps; and

Whereas, Julian Hawley Poole married Lena Nelson Booker of Johnston County on September 5, 1925, and they had two children, Samuel H. Poole and Sarah Elizabeth Poole (Mrs. Paul H. Davis); and

Whereas, Julian Hawley Poole was a pioneer peach grower and was one of the largest peach producers in the world. At the height of his peach career he had more than 1200 acres in Moore, Richmond, Hoke, Montgomery and Surry Counties. His Diamond P brand peaches were in demand all over the northeastern United States. He served as president of the N.C. Mutual Peach Growers Society, was a director of the Tri-State Peach Growers and the N. C. Peach Growers Council, and was a charter member of the National Peach Council; and

Whereas, Julian Hawley Poole was a Presbyterian elder, a Sunday School Superintendent, served as moderator of Fayetteville Presbytery and was Master of Masonic Alberta Lodge No. 654; and

Whereas, Julian Hawley Poole was appointed to the N.C. Board of Agriculture by Governors Hoey, Cherry, Broughton, Kerr Scott, Umstead, Hodges, Sanford, Moore and Bob Scott, serving in all 40 years, and was a member of The University of North Carolina Board of Trustees. He was a leader in outlawing low grade fertilizer in North Carolina; and

Whereas, three major North Carolina Department of Agriculture laboratories became realities in the 1970's. They include the Rollins Animal Disease Diagnostic Laboratory, the Constable Food and Drug Laboratory and L.Y. Ballentine Agronomic Laboratory. Much of the credit for the existence of these facilities is due Julian Hawley Poole; and

Whereas, Julian Hawley Poole served as Chairman of the Board of Supervisors of the Upper Cape Fear Soil Conservation District and State President of Supervisors Soil Conservation; and

Whereas, Julian Hawley Poole served as President of the Sandhills Kiwanis Club, served on the Board of Directors of the Sandhills Kiwanis Club, was a recipient of the Sandhills Kiwanis Builders Cup and was a Director of Carolina Bank; and

Whereas, Julian Hawley Poole served in the North Carolina House of Representatives in the 1937, 1941, and 1943 Sessions, and in the North Carolina Senate in the 1951 and 1955 Sessions, and served as chairman of the House Committee on Expenditures of the House and the Senate Committees on Penal Institutions and Justices of the Peace. He was a leader in the 1937 House of Representatives in making illegal in North Carolina the prosperous industry of manufacturing slot machines, also known as one arm bandits; and

Whereas, Julian Hawley Poole died on April 28, 1982, at the age of 92;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly expresses its appreciation for the life and public service of Julian Hawley Poole and honors his memory.

Sec. 2. The Secretary of State shall send a certified copy of this resolution to his son, Samuel H. Poole, of Southern Pines, North Carolina; to his daughter, Sarah Elizabeth Poole Davis, of West End, North Carolina; and to his sister, Mrs. Edith Poole Pankey, of Jackson Springs, North Carolina. His wife predeceased him on June 19, 1966.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of July, 1983.

S. R. 690 RESOLUTION 47

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF PATRICIA ALLEN BENTON.

Whereas, Patricia Allen Benton, beloved wife of Fred M. Benton, Sr., and devoted mother of Fred M. Benton, Jr., and Patricia Hale Benton, after a courageous and inspiring battle against cancer, died on April 16, 1983; and

Whereas, Pat Benton, as she was affectionately known, maintained a lifelong interest in the public affairs of her State and nation, participating actively in the processes of government, supporting candidates of her choice and serving as trusted friend and advisor to many of North Carolina's most respected elected officials; and

Whereas, she served for many years as a member of the professional staff of the North Carolina General Assembly distinguishing herself as the first Executive Director of the Legislative Research Commission. In that capacity she recognized the need of legislators for ready research and resource materials. Working closely with former Senator Thomas J. White, she was instrumental in establishing the Legislative Library which has become an invaluable resource of this body; and

Whereas, her love for that Library was so great that her family has established in her memory the Patricia Benton Legislative Library Fund to

enhance the resources of the Library and its contribution to the cause of good government in North Carolina; and

Whereas, during her service in the North Carolina Legislature, Pat Benton served as Chief Clerk for the Senate Judiciary II; Rules; Welfare; Manufacturing, Labor and Commerce; and Conservation and Development Committees, earning a reputation for superior organizational skills and management ability; and

Whereas, Pat Benton served for five years as Director of the Legislative Drafting Office keeping the confidence of members of both political parties, earning their trust and admiration, and through advice respectfully given, affecting both the style and substance of countless bills enacted by the General Assembly of North Carolina; and

Whereas, during her service to the North Carolina General Assembly she served as a personal assistant to many distinguished members of the Senate including the Honorable Robert Morgan of Harnett, the Honorable Robert Morgan of Cleveland, the Honorable Joe Raynor, the Honorable Herman Moore, the Honorable Archie K. Davis, the Honorable Thomas J. White, Sr., Lieutenant Governor Pat Taylor and Speaker of the House Earl Vaughn; making their tasks easier and endearing herself to all with whom she had contact; and

Whereas, Pat Benton was a close personal friend, confidante and advisor to United States Senator Robert B. Morgan, playing a vital role in his election to that office and serving for six years as a member of his senior staff; and

Whereas, while an employee of the United States Senate, she personally assisted hundreds of her fellow citizens who sought help through her good offices, untangling bureaucratic red tape and mixing devotion to task with generous portions of genuine concern and compassion; and

Whereas, her death has been deeply mourned by her countless friends and associates who through the years benefitted from her good work, enjoyed her friendship, respected and heeded her wise counsel, and shared and sought to return the love and affection which radiated from her; and

Whereas, Pat Benton lived a good and joyous life, touching in marvelous and indescribable ways all those about her and leaving with them enduring memories of her firm but gentle nature, her abundant wit and good humor, her zeal for life, her appreciation for beauty, her love of nature and the God who created it, and her untiring and, certainly, undying devotion and love for family and friends;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina expresses its appreciation for the life and accomplishments of Patricia Allen Benton for the devoted and tireless services she rendered to this body and to the people of her State and nation.

Sec. 2. The General Assembly of North Carolina extends its deepest sympathy to the family and friends of Patricia Allen Benton for the loss of a beloved wife, mother, friend and public servant.

Sec. 3. This resolution shall become part of the public records of this session of the General Assembly and a copy of it be certified by the Secretary of State and presented to the family.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.

H. R. 1211 RESOLUTION 48

A JOINT RESOLUTION MEMORIALIZING THE CONGRESS TO PASS EMERGENCY LEGISLATION TO OPEN UP THE TREACHEROUS CHANNEL AT OREGON INLET.

Whereas, shoaling in Oregon Inlet over the past three years has resulted in a dangerous bar at the entrance to the inlet which threatens the lives and property of commercial and sportfishermen and has caused the loss of at least one major fishing vessel each year; and

Whereas, more than 200 large fishing trawlers from the southern reaches of the Pamlico Sound no longer use Wanchese Harbor because of this treacherous condition; and

Whereas, proper and safe navigational channels through Oregon Inlet are vital to boost the struggling commercial fishing industry and related industries of the counties surrounding in Pamlico, Roanoke, Albermarle, Currituck and Croatan Sounds in eastern North Carolina; and

Whereas, these same navigational channels are equally vital to a vast sportfishing industry in these counties; and

Whereas, issues surrounding the Manteo (Shallowbag) Bay Project which includes the stabilization of Oregon Inlet have not been resolved; and

Whereas, in Washington, D.C., on February 5, 1982, the United States Department of the Army, supported by the Department of the Interior and members of Congress, proposed an interim dredging program which was intended to guarantee the congressionally authorized channel depth of fourteen feet and width of four hundred feet; and

Whereas, the Department of the Army has not provided the congressionally authorized channel width and depth at any time; and

Whereas, unemployment in Dare County, due in great part to the lack of a proper and safe channel through Oregon Inlet, exceeded 42% during the very peak of the 1982-83 winter fishing season; and

Whereas, the continued treachery of Oregon Inlet passage, the deplorable conditions mentioned herein that have resulted therefrom, and the several unresolved issues relating to the stabilization of Oregon Inlet, caused to be held a high-level conference in Washington, D.C., on April 21, 1983, at which time the Department of the Army, supported by the Secretary of the Department of Interior, once again proposed an interim dredging effort to provide the congressionally authorized channel width and depth; and

Whereas, the United States Army Corps of Engineers, in full agreement with those having local knowledge of Oregon Inlet, proposed opening a new channel (also known as the "Middle" Channel) to the south of the existing channel as a more practicable interim measure of maintaining safe passage through Oregon Inlet;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Congress of the United States of America is respectfully and urgently requested to provide an emergency appropriation of adequate

funds for the immediate, interim dredging measure for the opening of the proposed Oregon Inlet Channel (Middle Channel) so that the dredging may be accomplished during the fair summer weather, thereby preventing further loss of property, possible loss of lives, and reducing severe unemployment.

Sec. 2. The Secretary of State shall send certified copies of this resolution upon ratification to the members of the North Carolina congressional delegation, the Secretary of the Army, the Secretary of the Department of the Interior and the Governor of North Carolina.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.

S. R. 258 RESOLUTION 49

A JOINT RESOLUTION AUTHORIZING CONTINUATION OF THE JOINT SPECIAL COMMITTEE TO REVIEW THE DEPARTMENT OF TRANSPORTATION.

Whereas, the 1981 General Assembly adopted House Joint Resolution 1225 (Resolution 60) creating the Special Committee to Study the Department of Transportation; and

Whereas, this Special Committee has worked diligently during 1982 to monitor the Department's progress in carrying out the General Assembly's recommendation, directives or base budget actions and to investigate additional areas; and

Whereas, the Department has saved or avoided spending approximately forty-five million dollars ($45,000,000) since the beginning of the fiscal year by carrying out its statutory directives from the General Assembly; and

Whereas, on its own initiative, the Department has made additional cost improvements resulting in significant savings; and

Whereas, the Special Committee's work has led to improved communications and understanding between the General Assembly and the Department; and

Whereas, the Special Committee found that continued monitoring of the Department by the General Assembly is beneficial during lean economic times; and

Whereas, the Special Committee recommended that its work be continued;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Special Committee to Study the Department of Transportation created in Resolution 60 of the 1981 Session Laws is continued until January 1, 1985.

Sec. 2. The Special Committee shall investigate the status of implementation of its recommendations to the 1983 General Assembly and may study other areas of the Department of Transportation as it deems appropriate.

Sec. 3. The Legislative Services Commission shall provide professional and other staff assistance for the Special Committee. All costs of the Committee, including subsistence and travel allowances for members, shall be paid from the budget of the General Assembly as may be provided by the Legislative Services Officer.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of July, 1983.

H. R. 1185 RESOLUTION 50

A JOINT RESOLUTION DIRECTING THE MENTAL HEALTH STUDY COMMISSION TO PREPARE A RECODIFICATION DRAFT OF CHAPTER 122 OF THE GENERAL STATUTES, TITLED "HOSPITALS FOR THE MENTALLY DISORDERED", AND OF RELATED STATUTES.

Whereas, the Mental Health Study Commission is composed of legislative and lay members who are knowledgeable about the mental health, mental retardation and substance abuse services system and related laws; and

Whereas, the Mental Health Study Commission has established a regular mechanism for general public and professional input; and

Whereas, over the last 10 years there have been numerous amendments to Chapter 122 of the General Statutes, titled "Hospitals for the Mentally Disordered"; and

Whereas, there remain within Chapter 122 and related statutes antiquated provisions and inconsistent uses of terminology;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section. 1. The Mental Health Study Commission is directed to prepare for the 1985 General Assembly a recodification draft of Chapter 122 of the General Statutes, titled "Hospitals for the Mentally Disordered", and related statutes.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.

H. R. 1345 RESOLUTION 51

A JOINT RESOLUTION AUTHORIZING THE GENERAL ASSEMBLY TO STUDY THE ADMINISTRATIVE PROCEDURE ACT AND TO REVIEW RULES CURRENTLY IN EFFECT.

Whereas, the number of administrative rules in effect has proliferated to the detriment of the public good and the efficient operation of government;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Administrative Procedure Act Study Commission is hereby created. The Commission shall consist of 14 members of the General Assembly, seven appointed by the President of the Senate and seven by the Speaker of the House of Representatives. A vacancy in membership shall be filled by the appointing authority who made the initial appointment.

It shall be the duty of the Commission to study the Administrative Procedure Act, including the distinction between administrative rules and legislation, the difference between substantive and administrative rules, guidelines on when administrative rules may subject violators to civil or criminal penalties, prohibitions against enactment of rules that are legislative in nature, the standardization of administrative rule-making and public

participation therein, the number and content of rules currently in effect, and the nature of delegations of rule-making authority contained in the General Statutes and the legislative intent with respect thereto, and any other matters the Commission identifies as being of importance to consideration of the Administrative Procedure Act. The Commission shall report to the General Assembly on or before May 1, 1984. The report shall be in writing and shall set forth the Commission's findings, conclusions, and recommendations including any proposed legislation.

It shall be the further duty of the Commission to assist each agency subject to the provisions of Articles 2 and 5 of Chapter 150A of the General Statutes in reviewing its rules and recommending to the General Assembly which rules should continue to be in effect after July 1, 1985. To that end the Speaker of the House of Representatives and the President of the Senate are authorized to appoint additional members of the General Assembly to the Administrative Procedure Act Study Commission and are further authorized to divide the Commission into committees which shall review the rules on an agency basis. Such additional members shall serve on the Commission only for purposes of reviewing rules.

The agency review of rules shall commence upon agreement by the Commission and the Governor as to proposed changes to the Administrative Procedures Act, or upon enactment of any amendments to Chapter 150A as recommended by the Administrative Procedure Act Study Commission, and in any event not later than July 1, 1984. Each agency shall report to the Commission, the Governor, the Speaker of the House of Representatives, and the President of the Senate on October 1, 1984. The report shall be in writing on an individual rule basis and shall set forth the agency's recommendations as to which rules should continue to be in effect after July 1, 1985. A supplemental report shall be filed on November 15, 1984, regarding any rules filed by the agency during October 1984. The agency shall report to the Commission and the Governor immediately upon the filing of any temporary rule pursuant to G.S. 150A-13 during November and December 1984. The Commission shall review each agency's recommendations and shall report to the Governor, and the General Assembly on or before the convening date of the 1985 Session of the General Assembly. The report shall be in writing and shall set forth the Commission's recommendations as to the agencies' reports.

Sec. 2. Each agency shall cooperate with the Commission and supply all information requested by the Commission in a timely fashion.

Sec. 3. The President of the Senate and the Speaker of the House of Representatives shall appoint the cochairmen of the Commission from their respective appointees. The Commission shall meet at such times and places as the cochairmen shall designate. The facilities of the State Legislative Building and the Legislative Office Building shall be available to the Commission, subject to the approval of the Legislative Services Commission. Members of the Commission shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1.

The Commission may solicit, employ, or contract for technical assistance and clerical assistance and may purchase or contract for the materials and services it needs. Subject to the approval of the Legislative Services Commission, the staff resources of the Legislative Services Commission shall be

available to this Commission and its committees without cost except for travel, subsistence, supplies and materials.

Sec. 4. The expenses of the Administrative Procedure Act Study Commission shall be paid from funds available to the General Assembly.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.

S. R. 332 RESOLUTION 52

A JOINT RESOLUTION DIRECTING THE NORTH CAROLINA COURTS COMMISSION TO STUDY THE PROBLEM OF THE NORTH CAROLINA COURT OF APPEALS' CASE OVERLOAD.

Whereas, the North Carolina Court of Appeals presently has more cases per judge to hear than any other intermediate appeals court in the country, and this overload thus places a very heavy burden on the judges to hear and decide all these cases seasonably;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina Courts Commission is directed to study the problem of case overload in the North Carolina Court of Appeals. The study shall include a new examination of the structure of the North Carolina Court of Appeals together with any recommendations as to the altering of the structure so as to make the Court better able to handle its ever increasing caseload.

The Commission is directed to report the findings and recommendations of this study to the 1985 General Assembly.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

S. R. 622 RESOLUTION 53

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY SECURITY INTERESTS IN FARM PRODUCTS.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission may study security interests in farm products to determine whether current law adequately protects buyers of farm products that are subject to a security interest, selling agents of these farm products, and lenders. The Commission may examine the recording system for security interests in farm products to determine whether a central registry of these security interests is needed and, if so, the appropriate State agency to administer this registry. In conducting its study the Commission may consider the provisions of Senate Bill 622 as it was originally introduced in the 1983 Session and the committee substitute that was adopted for that bill, as well as the provisions of Senate Bill 676.

Sec. 2. The Commission shall make a final report of its findings and recommendations to the 1985 General Assembly and may make an interim report to the 1983 General Assembly, Second Session 1984.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

S. R. 653 **RESOLUTION 54**

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE CREATION OF A POLLUTION PREVENTION PAYS RESEARCH CENTER IN NORTH CAROLINA.

Whereas, the safe management of hazardous and low-level radioactive wastes is one of North Carolina's most urgent problems; and

Whereas, the Waste Management Act of 1981 found and declared prevention, recycling, detoxification and reduction to be the waste management techniques which best protect human health and the environment; and

Whereas, pollution indicates waste, and several industries have saved resources, conserved energy and made more profit by preventing and reducing pollution; and

Whereas, North Carolina industrialists, engineers, scientists, citizens and regulators want to make Pollution Prevention Pay in North Carolina;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission is authorized to study the desirability and feasibility of creating a Pollution Prevention Pays Research Center in North Carolina. The study shall include an analysis of:

(1) the amount, availability and dissemination of technical information on technologies that prevent, reduce, recycle, treat, incinerate, detoxify and store hazardous and low-level radioactive waste;

(2) the research needed to help North Carolina industries prevent and reduce water and air pollution and the generation of hazardous and low-level radioactive wastes;

(3) the effectiveness and desirability of conducting Pollution Prevention Pays conferences for industry groups such as the two conferences for the electroplating and metalfinishing industry in April, 1983;

(4) the transfer of waste management technologies to North Carolina industries;

(5) how to effectively utilize the resources and expertise of the Governor's Waste Management Board, Board of Science and Technology, the Department of Commerce, Commission on Health Services, Department of Human Resources, Environmental Management Commission, Department of Natural Resources and Community Development, Pesticide Board, Department of Agriculture, industry, University of North Carolina system, private universities and colleges, community college and technical college system, industrial associations, professional groups and others; and

(6) the advantages and disadvantages of centralizing information, resources, and expertise in a Pollution Prevention Pays Research Center or such other organizational arrangement as may seem appropriate.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

S. R. 693

RESOLUTION 55

A JOINT RESOLUTION SETTING THE TIME FOR ADJOURNMENT OF THE 1983 GENERAL ASSEMBLY TO RECONVENE IN 1984, AND LIMITING THE SUBJECTS THAT MAY BE CONSIDERED IN THAT SESSION.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. At 3:15 p.m., on Friday, July 22, 1983, the Senate and the House of Representatives shall adjourn to reconvene at noon on the second day after the date set by law for a 1984 second primary. During that session only the following matters may be considered:

(1) Bills directly affecting the State budget for fiscal year 1984-85.

(2) Bills introduced in 1983 and favorably acted upon in the house in which introduced, received in the other house, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading.

(3) Bills implementing the recommendations of study commissions authorized or directed to report to the 1984 Session, except that no constitutional amendment so recommended shall be considered.

(4) Any local bill filed for introduction by 5:00 p.m., on the Wednesday after the 1984 Session convenes and accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, the bill is noncontroversial, and the bill is approved for introduction by each member of the Senate and House whose district includes the local area to which the bill applies.

(5) Selection or confirmation of members of State boards and commissions as required by law.

(6) Any matter authorized by joint resolution passed during the 1984 Session by two-thirds majority of the members of the House of Representatives present and voting and by two-thirds majority vote of the membership of the Senate. A bill or resolution filed in either house under the provisions of this subsection (6) shall have a copy of the ratified enabling resolution attached to the bill jacket.

(7) Any bill affecting any State or local pension or retirement system.

Sec. 2. The President of the Senate and the Speaker of the House may authorize appropriate committees or subcommittees of their respective houses to meet during the interim between sessions to review matters related to the State budget for the 1983-85 biennium and to prepare reports, including revised budgets, for consideration at the 1984 Session.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of July, 1983.

EXTRA SESSION 1983

S. B. 1 CHAPTER 1

AN ACT TO APPOINT PERSONS TO PUBLIC OFFICE UPON THE RECOMMENDATION OF THE PRESIDENT OF THE SENATE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President of the Senate; and

Whereas, the President of the Senate has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. W. R. Helms of Wayne County is appointed to the Committee for Incentive Pay for State Employees for a term to expire on June 30, 1984.

Sec. 2. Donovan Phillips of Pitt County and Wilda H. Hurst of Onslow County are appointed to the North Carolina Technological Development Authority for terms to expire June 30, 1987.

Sec. 3. Jimmy L. Love of Lee County, Wade M. Smith of Wake County and William Arthur Barnes, Jr. of Buncombe County are appointed to the Governor's Administrative Rules Review Committee for terms to begin on November 1, 1983, and expire on October 31, 1985.

Sec. 4. Bill Walker of Buncombe County is appointed to the Board of State Contract Appeals for a term to expire on June 30, 1984.

Sec. 5. Section 29 of Chapter 911, Session Laws of 1983 is amended by deleting "for a term to expire on June 30, 1986", and inserting in lieu thereof "for a term to expire on June 30, 1985".

Sec. 6. Joanne Brannon Aldridge of Watauga County is appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for a term to expire on June 30, 1987, to fill the vacancy caused by the resignation of E. V. Wilkins.

Sec. 7. Except as otherwise provided in this act, terms begin on the effective date of this act.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of August, 1983.

H. B. 1 CHAPTER 2

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the Speaker of the House of Representatives; and

Whereas, the Speaker of the House of Representatives has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Catharine Biggs Arrowood of Wake County, Howard F. Twiggs of Wake County and George A. Hux of Halifax County are appointed to the Governor's Administrative Rules Review Commission for terms to begin on November 1, 1983, and to expire on October 31, 1985.

Sec. 2. Dr. William T. Bird of Haywood County and Dr. Aaron Hyatt of Jackson County are appointed to the North Carolina Technological Development Authority for terms expiring June 30, 1985.

Sec. 3. Everett Carnes of McDowell County is appointed to the Board of State Contract Appeals for a term to expire on June 30, 1984.

Sec. 4. Helen Little of Caswell County is appointed to the Board of Trustees of The University of North Carolina Center for Public Television for a term to expire on June 30, 1985, to fill the vacancy caused by the resignation of John S. Stevens.

Sec. 5. Dr. Wallace Hyde of Buncombe County is appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring on June 30, 1984, to fill the vacancy caused by the resignation of James B. Childress.

Sec. 6. George T. Rogister, Jr., of Wake County is appointed to the Committee for Incentive Pay for State Employees for a term to expire on June 30, 1984.

Sec. 7. Unless otherwise specified, all appointments made by this act are for terms to begin on the effective date of this act.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of August, 1983.

H. B. 3 CHAPTER 3

AN ACT TO PROVIDE FOR THE PRINTING OF THE SESSION LAWS AND JOURNALS OF THE EXTRA SESSION OF 1983.

The General Assembly of North Carolina enacts:

Section 1. The Session Laws and Resolutions of the Extra Session of 1983 shall be printed and published in the volume of 1983 Regular Session Laws, and the Journals of the House and Senate of the Extra Session of 1983 shall be printed and published in the respective volumes of the 1983 Journals.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of August, 1983.

H. B. 5 CHAPTER 4

AN ACT TO CORRECT AN ERROR IN AN ACT RELATING TO THE WILMINGTON CITY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. Section 10(a) of Chapter 597 of the 1983 Session Laws is amended by substituting the date "October 11" for the date "October 8".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of August, 1983.

H. B. 4 CHAPTER 5

AN ACT TO STRENGTHEN LAWS REGULATING SALES OF ALCOHOLIC BEVERAGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-302(a) is amended by deleting the word "knowingly".

Sec. 2. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 26th day of August, 1983.

H. B. 2 CHAPTER 6

AN ACT TO CLARIFY CRIMINAL DISCOVERY OF ORAL STATEMENTS OF THE DEFENDANT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-903(a)(2) is rewritten to read:

"(2) To divulge, in written or recorded form, the substance of any oral statement relevant to the subject matter of the case made by the defendant, regardless of to whom the statement was made, within the possession, custody or control of the State, the existence of which is known to the prosecutor or becomes known to him prior to or during the course of trial; except that disclosure of such a statement is not required if it was made to an informant whose identity is a prosecution secret and who will not testify for the prosecution, and if the statement is not exculpatory. If the statement was made to a person other than a law enforcement officer and if the statement is then known to the State, the State must divulge the substance of the statement no later than 12 o'clock noon, on Wednesday prior to the beginning of the week during which the case is calendared for trial. If disclosure of the substance of defendant's oral statement to an informant whose identity is or was a prosecution secret is withheld, the informant must not testify for the prosecution at trial."

Sec. 2. G.S. 15A-908(a) is rewritten to read:

"(a) Upon written motion of a party and a finding of good cause, which may include, but is not limited to a finding that there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment, the court may at any time order that discovery or inspection be denied, restricted, or deferred, or may make other appropriate orders."

Sec. 3. G.S. 15A-910 is amended by adding two new subdivisions to read:

"(3a) Declare a mistrial, or

(3b) Dismiss the charge, with or without prejudice, or".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of August, 1983.

H. R. 6

RESOLUTION 1

A JOINT RESOLUTION ADJOURNING THE 1983 EXTRA SESSION SINE DIE.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Senate and House of Representatives, constituting the Extra Session of the General Assembly of 1983, do adjourn the Extra Session *sine die* on Friday, August 26, 1983, at 3:00 p.m.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of August, 1983.

STATE OF NORTH CAROLINA

DEPARTMENT OF STATE,

RALEIGH, AUGUST 29, 1983

I, THAD EURE, Secretary of State of North Carolina, hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the office of the Secretary of State.



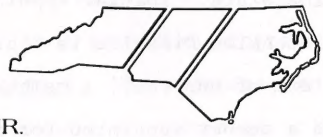
Secretary of State

APPENDIX

EXECUTIVE ORDERS OF GOVERNOR JAMES B. HUNT, JR.

Subject	Number
NORTH CAROLINA AGRICULTURAL EXTENSION ADVISORY COUNCIL	83
NORTH CAROLINA OIL RE-REFINING PROGRAM	84
GOVERNOR'S TASK FORCE ON SCIENCE AND TECHNOLOGY	85
ADVISORY COUNCIL TO THE GOVERNOR'S OFFICE OF CITIZEN AFFAIRS	86
NORTH CAROLINA SMALL BUSINESS ADVOCACY COUNCIL	87
NORTH CAROLINA'S 400th ANNIVERSARY COMMEMORATION	88
ADVISORY COMMITTEE FOR THE NORTH CAROLINA PUBLIC MANAGER PROGRAM	89
GOVERNOR'S EXECUTIVE CABINET ON JUVENILES	90
NORTH CAROLINA HEALTH COORDINATING COUNCIL	91
COMPLIANCE WITH FEDERAL LAW PROVIDING FOR TWIN TRAILERS AND WIDTH OF MOTOR VEHICLES	92
JOB TRAINING POLICY	93
NORTH CAROLINA ENERGY INSTITUTE AND THE GOVERNOR'S STUDY COMMISSION ON ENERGY LOANS	94
EXECUTIVE CABINET AWARDS FOR MANAGEMENT EXCELLENCE	95
CONSERVATION OF PRIME AGRICULTURAL AND FOREST LANDS	96
MORATORIUM ON TERMINATING SOCIAL SECURITY DISABILITY BENEFITS	97
COMMISSION ON EDUCATION FOR ECONOMIC GROWTH	98

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 83

NORTH CAROLINA AGRICULTURAL EXTENSION ADVISORY COUNCIL

WHEREAS, since 1979 the ten-member North Carolina Agricultural Extension Advisory Council has provided motivation and leadership to the 100 County Extension Advisory Councils; and

WHEREAS, the Advisory Council has accomplished a complete reorganization of the County Councils involving over twelve thousand volunteers; and

WHEREAS, the County Councils provide leadership to an additional fifty thousand volunteers involved in the delivery of Extension education programs; and

WHEREAS, the Advisory Council has reached the maximum effectiveness of volunteer involvement with its present size; and

WHEREAS, there is a need to expand the size of the Advisory Council in order to increase the geographical representation and leadership to the county units and provide cooperation between the State Council and major commodity and support groups;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby increase the membership of the North Carolina Agricultural Extension Advisory Council from ten (10) members to twenty (20) members.

Section 2. The Director of the North Carolina Agricultural

Extension Service shall appoint all members of the Advisory Council. Three members shall be selected from each of the six Extension Districts in the State. Initial appointments will be staggered so that each Extension District is represented by a member appointed for a term of one year, a member appointed for a term of two years, and a member appointed for a term of three years. After the initial appointments, subsequent appointments shall be for three-year terms. In addition to the members representing the Extension Districts, two at large members shall be appointed by the Director to serve a three-year term. All members are eligible to serve two full consecutive terms, in the discretion of the Director. The Director shall fill vacancies in the membership from the same category represented by the member vacating the office. The membership of the Advisory Council shall elect such officers from among the membership of the Advisory Council as it deems appropriate to carry out its duties and responsibilities.

Section 3. The duties of the Advisory Council are as follows:

(1) Determine general program direction for the North Carolina Agricultural Extension program.

(2) Review current program efforts and evaluate their progress and effectiveness.

(3) Provide leadership and counsel in the development of statewide educational programs.

(4) Advise on the expenditure of the scarce resources in program development by establishing priorities which reflect statewide needs.

(5) Encourage, train and recognize the Extension volunteer effort in the state.

(6) Coordinate the efforts of program committees.

(7) Link Extension programs with other groups and agencies.

Section 4. While engaged on official business, members of the Advisory Council are entitled to such per diem and reimbursement for travel and subsistence as may be authorized under N.C.G.S. 138-6. These funds shall be provided from the operating budget for the North Carolina Agricultural Extension Service.

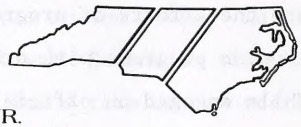
Section 5. This order shall become effective immediately.

Done in the Capital City of Raleigh, this the 26th day of August 1982.



JAMES B. HUNT, Jr.
GOVERNOR

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 84

North Carolina Oil Re-Refining Program

WHEREAS, improper disposal of used oil is a health hazard which contributes significantly to the pollution of our environment; and

WHEREAS, improper disposal of used oil wastes a scarce natural resource that could be conserved through re-refining; and

WHEREAS, re-refining oil can be cost-effective way to conserve a scarce resource with minimum negative environmental impact; and

WHEREAS, re-refined oil has been proven as effective as virgin oil in vehicles which use standard 30-weight oil; and

WHEREAS, the North Carolina General Assembly enacted legislation (1977 Session Laws, C.802, S.50.55, p. 1088) authorizing the Department of Administration to establish and administer an oil re-refining program and facility; and

WHEREAS, the Department of Administration and its Oil Re-Refining Board of Directors have established an oil re-refining program and are operating an oil re-refinery; and

WHEREAS, the efficient and cost-effective operation of the North Carolina Oil Re-Refinery is dependent upon adequate supplies of uncontaminated used oil; and

WHEREAS, the efficient and cost-effective operation of the North Carolina Oil Re-Refinery is dependent upon minimum transportation costs to collect used oil and distribute re-refined oil;

NOW, THEREFORE, I, James B. Hunt, Jr., under and by the authority vested in me as Governor of the State of North Carolina, do hereby direct all state agencies to cooperate fully with the Department of

Administration and its Oil Re-Refining Board of Directors in collecting used oil from agency vehicles for re-refining in the North Carolina Oil Re-Refinery as outlined in Attachment A to this Executive Order.

I hereby authorize the Secretary of Administration to modify this directive and to issue further directives if necessary.

I further direct all state agencies to purchase all needed motor oil from the re-refinery, if available, pursuant to the procedure adopted by the State Division of Purchase and Contract.

I further direct all state agencies operating regularly scheduled truck routes throughout the state to cooperate with the Department of Administration to determine means by which such trucks could also be used to assist in collecting used oil and distributing re-refined oil to garages throughout the state.

This Order shall become effective immediately.

Done in the Capital City of Raleigh, North Carolina, this twenty-first day of September, 1982.

JAMES B. HUNT, JR.
GOVERNOR



ATTACHMENT A

DIRECTIVE FOR COLLECTION OF USED OIL

1. Purpose

This directive provides guidelines for the collection of used oil to ensure high quality feedstock for the North Carolina Oil Re-Refinery and to safeguard those employees handling or working near used oil, or both.

2. Scope

These instructions apply to all state-owned garages and shop facilities which are required by Executive Order 84 to save used petroleum products for re-refining by the North Carolina Oil Re-Refinery.

3. Definitions

a. Used Oil: Petroleum-based lubricating oil, including any weight motor oil from gasoline engines, rear end grease, and transmission fluid.

b. Feedstock: High quality used oil that will be mixed with other used oil to be re-refined. Feedstock for the North Carolina Oil Re-Refinery must have a minimum of contaminants and must not exceed 10% water.

c. Re-Refined Oil: Used lubricating oil that has been chemically processed (including cleaning and improved with additives) to make it equivalent to virgin oil.

4. Categories of Oil to be Collected

The categories of used oil to be collected for the North Carolina Oil Re-Refinery are:

a. Used Gasoline Motor Crankcase Oil,
b. Lubricating Oils,
c. Mineral Base Solvents,
d. Preservative Oils, Mineral Based, and
e. Used Diesel Engine Oil,
(Note: must not be synthetic).

Extreme care must be taken to assure that the used oil beirg collected is not contaminated with water, foreign matter (such as gaskets, rags, and other trash), or other liquids.

5. Categories of Liquids Not To Be Collected

The following categories of liquids are not to be collected for the North Carolina Oil Re-Refinery because they cannot be re-refined:

a. No Petroleum Liquids named above which contain more than 10% water or more than 10% kerosene,
b. No Synthetic Liquids,
c. No Petroleum Liquids containing contaminants such as other chemicals (for example, those containing chlorines),
d. No Battery Acid,
e. No Varsol or Alcohol Derivatives,
f. No Anti-Freeze,
g. No Gear Grease, and
h. No Brake Fluid.

6. Collection Containers

To prevent hazards to the environment and to those people working with or near used oil, and to ensure a high quality feedstock, the containers for collecting used oil should be one of the following:

a. 55 Gallon Metal Drums which meet the following specifications:

(1) Reusable,
(2) with appropriate caps or other closure devices to prevent vaporization and entry of water or other contaminants.

b. Metal Storage Tanks, either under or above ground, which meet the following specifications:

(1) Adequately vented,

(2) With a 2-inch diameter minimum collection/drain pipe with standard thread screwcap,

(3) Appropriate closure devices to prevent vaporization and entry of water or other contaminants, and

(4) Located so that tanker trucks have access.

7. Storage of Collection Containers

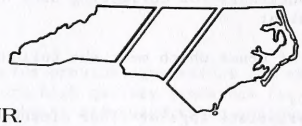
Collection containers will be stored or installed in close proximity to garage or shop, after coordination with local fire officials.

All collection containers, both 55 gallon drums and larger tanks, will be protected from vaporization and entry of water or other contaminants by:

a. Keeping them tightly capped at all times, and

b. Placing the 55-gallon drums under protective covering or shed structure.

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 85

Governor's Task Force on Science and Technology

WHEREAS, North Carolina has made a substantial commitment to enriching its scientific knowledge bank and fostering technological innovation and associated changes in living conditions for our people; and

WHEREAS, reduced federal support for scientific research and development has created a need for the states to assume greater responsibilities for support of research and education in science and technology and to provide stronger leadership in devising means for utilizing the results of scientific research for the benefit of society; and

WHEREAS, increasing international trade in areas related to advanced technology has significant social and economic implications for North Carolina;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby establish the Governor's Task Force on Science and Technology. The Task Force shall be composed of not more than 32 members appointed by the Governor to serve at the pleasure of the Governor. Fourteen members of the Task Force shall be members of the existing Board of Science and Technology. The Governor shall designate two members as Co-chairman.

Section 2. The Task force shall meet regularly at the call of the Chairmen and may hold special meetings at any time at the call of the Chairmen or the Governor. The Board of Science and Technology will provide staff support for the Task Force.

Section 3. Members of the Task Force shall be reimbursed for such necessary travel and subsistence expenses as are authorized by N.C.G.S. 138-5. Funds for reimbursement of such expenses shall be made available from the N. C. Board of Science and Technology.

Section 4. The Task Force shall have the following duties:

(a) Foster the identification and support of research needs of both public and private agencies, institutions, organizations and firms in North Carolina;

(b) Review the impact of reduced federal support to colleges and universities for research and education in science, engineering and mathematics and examine the circumstances which have led to the decline in quality instruction of science and mathematics in elementary and secondary schools;

(c) Evaluate the State's existing resources in science and technology development and recommend policies, procedures, organizational structures and financial requirements necessary to enable the people of North Carolina to realize additional benefits from more extensive use of science and technology;

(d) Define how the specific recommendations may be executed, including the development of constituency understanding and support, provision of private capital, and generation of public financial support; and

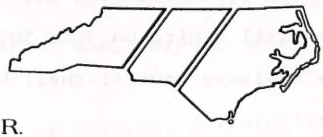
(e) Prepare and submit to the Governor appropriate interim reports and a final report which shall include the Task Force's findings and recommendations. A preliminary draft of the final version of the report shall be submitted on or before the final version of the report shall be submitted on or before the final effective date of this Executive Order.

Section 5. This Order shall become effective upon signing and shall remain in effect through December 31, 1983.

Done in the Capital City of Raleigh, this the Twenty-third day of September, 1982.

James B. Hunt, Jr.
Governor

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 86

EXTENDING THE ADVISORY COUNCIL TO THE
GOVERNOR'S OFFICE OF CITIZEN AFFAIRS

WHEREAS, the Advisory Council to the Governor's Office of Citizen Affairs has played a significant role in promoting, encouraging, recognizing and affirming volunteerism within the public and private sectors; and

WHEREAS, the Advisory Council has provided valuable information to the staff of the Governor's Office of Citizen Affairs regarding all dimensions of volunteerism; and

WHEREAS, Executive Order 67, extending the Advisory Council, expired on December 31, 1981; and

WHEREAS, I now desire to extend the Advisory Council to the Governor's Office of Citizen Affairs until the end of Fiscal Year 1984-1985;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. Executive Order 67 is hereby extended through and including June 30, 1985.

Section 2. Members of the Advisory Council shall be appointed by the Governor, who shall name one of the members as Chairperson.

Terms of office will begin upon the signing of this order and will expire on December 31, 1983. A new Advisory Council will be appointed on that date, with members eligible for reappointment. Those terms of office will expire on June 30, 1985.

Section 3. The Advisory Council shall have the following duties and responsibilities:

(a) To coordinate and assist in the development and promotion of State and local government citizen participation programs;

(b) To act as an advisor to the Director of the Governor's Office of Citizen Affairs;

(c) To assist and provide information to the citizens of North Carolina about the Governor's Office of Citizen Affairs, State programs, services and activities;

(d) To provide assistance in the encouragement of citizen leadership and responsibility for improving communities and counties throughout the State;

(e) To encourage volunteerism on all levels in North Carolina; and

(f) To assist in establishing involvement councils in each county in North Carolina.

Section 4. The Governor's Office of Citizen Affairs shall provide administrative, staff, and support services for the Council. Members of the Council may be reimbursed for travel and subsistence expenses as may be authorized for members of State boards and commissions generally.

Section 5. All portions of prior executive orders concerning the Advisory Council to the Governor's Office of Citizen Affairs which are inconsistent with this order are hereby repealed.

Section 6. This Order shall become effective immediately.

Done in the Capital City of Raleigh, this the Fifth day of November, 1982.

James B. Hunt, Jr.
Governor

State of North Carolina

JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 87

Amending Executive Order 51 on the
North Carolina Small Business Advocacy Council

WHEREAS, I created the North Carolina Small Business Advocacy Council by Executive Order 51 on May 16, 1980; and

WHEREAS, I now desire to amend a portion of that order;

NOW, THEREFORE, IT IS HEREBY ORDERED:

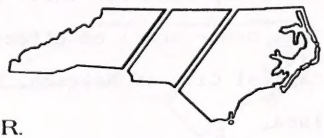
Section 1. I hereby rewrite Section One of Executive Order 51 in its entirety to read as follows: "I hereby establish the North Carolina Small Business Advocacy Council. The Council shall be composed of at least 20 members appointed by the Governor. The terms of those members serving on the date of the signing of this Order shall expire on June 30, 1983. Thereafter, all appointments are for one year terms. Members are eligible for reappointment."

Section 2. This Order shall be effective immediately.

Done in the Capital City of Raleigh, this the eighth day of November, 1982.

James B. Hunt, Jr.
Governor

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 88

400th Anniversary Commemoration

WHEREAS, recognition of the heritage of the United States of America is a vital part of good citizenship, and

WHEREAS, English settlers established America's first colony 400 years ago on Roanoke Island, and

WHEREAS, proper commemoration of this event will require careful planning at the State and County levels;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. Each of the hundred counties of the State of North Carolina shall establish a county committee on America's 400th Anniversary.

Section 2. The duties of the committees shall be: (a) To plan for a celebration of America's 400th Anniversary to take place in each respective county; and (b) To develop a program of action in compliance with the goals and objectives of America's 400th Anniversary Committee.

Section 3. The Governor shall name a chairman of each county committee to serve until the work of the Committee is complete. Each county committee chairman will be responsible for selecting members of the Committee to assist with local efforts.

Section 4. Members of the county committees shall not receive any state funds for per diem or reimbursement for travel and subsistence expenses for their services.

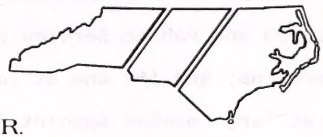
Section 5. This Order shall be effective immediately.

Done in our Capital City of Raleigh, this the ninth day of November, 1982.



James B. Hunt, Jr.
Governor

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 89

Advisory Committee for the North Carolina
Public Manager Program

Whereas, on June 6, 1979, I issued Executive Order 32, creating the Advisory Committee for the North Carolina Public Manager Program; and

Whereas, the duties assigned to the Advisory Committee under Executive Order 32 have been completed; and

Whereas, there is a need to provide on a continuing basis a training program for State government managers in order to enable them to confront new challenges and provide leadership to promote new standards of effectiveness, efficiency and accoutability.

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. Executive Order 32 is hereby repealed and superseded by this Executive Order.

Section 2. I hereby create a new Advisory Committee for the North Carolina Public Manager Program. The Advisory Committee shall be composed of five members: (1) The Director of the Office

of State Personnel, who shall serve as Chairman; (2) the Director of the Institute of Government, who shall serve as Vice-Chairman; (3) the Secretary of the Department of Administration; (4) the Vice-President of Research and Public Service Programs at the University of North Carolina; and (5) one at large member appointed by the Governor. The at large member appointed by the Governor shall serve a term of two years from the date of appointment by the Governor. The appointment and term of all other members shall be ex officio.

Section 3. The Advisory Committee shall have the following duties: (1) make recommendations to the State Personnel Commission on policies and procedures; (2) establish appropriate committees for program development and coordination; (3) recognize participants who have completed all program requirements for the North Carolina Public Manager Program; and (4) provide general advice and counsel to the Public Manager Program, especially in the areas of planning, evaluation, and funding.

Section 4. Staff and support services for the Advisory Committee shall be provided jointly by the Office of State Personnel and the University of North Carolina. Any expenses incurred by the Advisory Committee shall be paid through the Office of the State Personnel from the budget of the Public Manager Program.

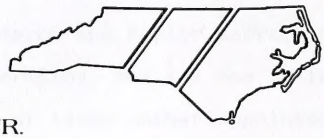
Section 5. This Order shall become effective immediately and shall remain in effect until superseded by legislation or by futher Executive Order.

Done in our Capital City of Raleigh, this the 11th day of January, 1983.



James B. Hunt, Jr.
Governor

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 90

Changing the Membership of the
Governor's Executive Cabinet on Juveniles

WHEREAS, I have created the Governor's Executive Cabinet on Juveniles by Executive Order 63, as amended by Executive Order 76; and

WHEREAS, I now desire to make changes in the membership of the Governor's Executive Cabinet on Juveniles;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby amend Executive Order 76 by rewriting Section 1 of said Order in its entirety to read as follows: "Section 1. I hereby create the Executive Cabinet on Juveniles. The members of the Cabinet shall be as follows: The Governor, who shall serve as chairman, the Chief Justice, the Attorney General, the Secretary of Human Resources, the Secretary of Correction, the Secretary of Crime Control and Public Safety, the Secretary of Natural Resources and Community Development, the Director of the Governor's Office of Citizen Affairs, the Superintendent of Public Instruction, the Chairman of the Governor's

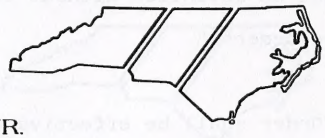
Crime Commission, and the Chairman of the Courts Commission. The Governor may add additional members or delete current members of the Executive Cabinet on Juveniles without the promulgation of additional Executive Orders."

Section 2. This Order shall be effective immediately.

Done in the Capital City of Raleigh, this the eleventh day of January, 1983.

James B. Hunt, Jr.
Governor

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 91

North Carolina State Health Coordinating Council

WHEREAS, the North Carolina Health Coordinating Council was established by Executive Order Number 19 on June 1, 1976, by the Governor of North Carolina to meet certain requirements of Public Law 93-641, the National Health Planning and Resource Development Act of 1974; and

WHEREAS, the federal requirements of Public Law 93-641 regarding the functions to be performed by the North Carolina Health Coordinating Council have subsequently been modified and the funding substantially reduced;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I, James B. Hunt, Jr., Governor of North Carolina, by virtue of the power vested in me, do hereby abolish the existing North Carolina Health Coordinating Council, and create and establish under the auspices of the Department of Human Resources a new North Carolina Health Coordinating Council whose membership and functions are commensurate with the health planning needs of North Carolina.

Section 2. The North Carolina Health Coordinating Council shall have the following duties and functions:

(1) Serve as a forum for hearing regional concerns and recommendations relating to health planning.

(2) Compile a list of state health needs and advise the Department of Human Resources.

(3) Advise the Department of Human Resources on issues related to state health needs, giving attention to local, regional and statewide needs.

(4) Review and comment on contents of documents related to health planning and make recommendations concerning them to the Secretary of Human Resources and the Governor.

(5) Advise the Department of Human Resources on cost effective mechanisms for achieving health needs.

(6) Advise the Department of Human Resources on the best use and coordination of available resources.

(7) Advise and make recommendations on legislative proposals relating to health needs, including budgetary issues.

Section 3. Membership: The North Carolina Health Coordinating Council shall consist of not more than 26 members who shall be appointed by the Governor as follows:

(a) Each person appointed to the North Carolina Health Coordinating Council shall have his principal place of resident in the State of North Carolina.

(b) Membership shall include representation from the following:

Academic Medical Centers	1
Area Health Education Centers	1
Business and Industry (at least one individual representing small business and one representing large business)	3
Health Insurance Industry	1
NC Association of County Commissioners	1
NC Health Care Facilities Association	1
NC Hospital Association	2

NC Medical Society	2
NC House of Representatives	1
NC Senate	1
Other Health Professional Associations (e.g., Nursing, Public Health, Dentistry, Pharmacy, Chiropractic, etc.)	2
Regional Representation (to provide adequate representation to all regions of the State. Emphasis should be on consumers of health care who are involved in health planning efforts at a regional level, such as members of business/health coalitions or regional health planning councils)	6-9
Veterans Administration (non-voting)	1
	26

Section 4. Terms of Membership: The terms of membership of the North Carolina Health Coordinating Council shall be staggered so that the terms of approximately one-third of the members shall expire in a single calendar year. Terms shall be staggered in the following manner for the first three years:

eight serving one year
nine serving two years
nine serving three years

After the first three years, each appointment shall be for a term of three years.

Section 5. Vacancies: The Governor shall have the power to remove from office any member of the North Carolina Health Coordinating Council for misfeasance, malfeasance, or nonfeasance. A vacancy occuring during a term of appointment is filled in the same manner as the original appointment and for the balance of the unexpired term.

Section 6. Travel expense: Members of the Council shall receive necessary travel and substance expenses in accordance with the provisions of G.S. 138-5.

Section 7. Chairman: The Chairman of the North Carolina Health Coordinating Council shall be appointed by the Governor. The term of office for the chairman shall be two calendar years. The Council may elect other such officers as it deems necessary.

Section 8. Meetings: The Council shall meet quarterly and at other times at the call of the chairman or upon written request of at least twelve (12) of its members. All business meetings of the Council, its committees and subcommittees or special task forces shall be open to the public.

Section 9. Staff Assistance: The Department of Human Resources shall provide clerical and other services required by the Council.

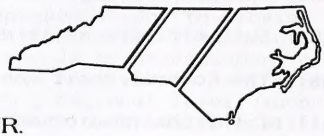
Section 10. This Order shall be effective January 12, 1983.

Done in the Capital City of Raleigh, North Carolina, this the 28th day of February, 1983.



James B. Hunt, Jr.
Governor

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 92

Compliance with Federal Law Providing for Twin Trailers and Width of Motor Vehicles

WHEREAS, the Congress of the United States of America passed the Surface Transportation Assistance Act of 1982 (P.L. 97-424), signed into law by the President on January 6, 1983; and

WHEREAS, Sections 411 and 412 of the Surface Transportation Assistance Act of 1982 require the State on certain highways: (a) to allow semitrailers of no less than 48 feet in length when in a tractor-semitrailer combination; (b) to allow trailing units of no less than 28 feet in length when in a tractor-semitrailer-trailer combination; (c) to refrain from placing any overall length limitation on tractor-semitrailer or tractor-semitrailer-trailer combinations; and

WHEREAS, Section 413 of the Surface Transportation Assistance Act of 1982 directs the United States Secretary of Transportation and the Attorney General of the United States to institute a civil action for injunctive relief to insure compliance with the provisions of Sections 411 and 412 of the Act; and

WHEREAS, regulations of the United States Department of Transportation promulgated February 3, 1982, (Volume 48, No. 24, Page 5210 of the Federal Register) require the State to permit vehicles provided for in Sections 411 and 412 of the Surface Transportation Assistance Act of 1982, no later than April 6, 1983; and

WHEREAS, those regulations provide for injunctive relief against the State if the State enforcement actions are contrary to Sections 411 and 412 requirements, on and after April 6, 1983, and

WHEREAS, the existing State laws found in N.C.G.S. 20-116 and N.C.G.S. 20-123, providing for trailer lengths and numbers, will be in conflict with the Federal laws and regulations on and after April 6, 1983; and

WHEREAS, the Surface Transportation Assistance Act of 1982 (P.L. 97-424) was amended on March 24, 1983 by Senate Bill 926, by adding a new section 416 which mandates a uniform vehicle width on the National System of Interstate and Defense Highways and other highways designated by the U. S. Secretary of Transportation; and

WHEREAS, Section 416 of the Surface Transportation Assistance Act of 1982 (P.L. 97-424), as amended, prohibits states from enforcing any law or regulation which imposes a vehicle width limitation of more or less than 102 inches on any segment of the National System of Interstate and Defense Highways, or any other

highway designated by the U. S. Secretary of Transportation; and

WHEREAS, the provisions of Section 416 of the Surface Transportation Assistance Act of 1982 (P.L. 97-424), as amended, are effective April 6, 1983; and

WHEREAS, the vehicle width limitations, as contained in G. S. 20-116, are in conflict with the provisions of the Surface Transportation Assistance Act of 1982 (P.L. 97-424) as amended; and

WHEREAS, Article VI of the Constitution of the United States provides that the Constitution of the United States and laws enacted pursuant thereto are the supreme law of the land binding on the States and State officers, notwithstanding laws of the State to the contrary; and

WHEREAS, it is the duty of the Governor of North Carolina to harmonize the laws of North Carolina with those of the United States.

NOW, THEREFORE, I HEREBY ORDER:

Section 1. The Secretary of the Department of Crime Control and Public Safety, the Secretary of the Department of Transportation and the Commissioner of Motor Vehicles are hereby directed to enforce only those provisions of G. S. 20-116 and G. S. 20-123 which are consistent with the provisions of Sections 411, 412, and 416 of the Surface Transportation Act of 1982 (P.L. 97-424), as amended.

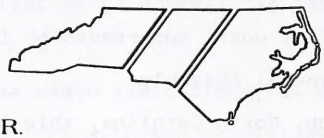
Section 2. The changes in the enforcement of these provisions of North Carolina law shall begin on April 6, 1983.

Section 3. This Order shall be effective immediately and shall remain in effect until superseded by further Executive Order or action of the General Assembly.

Done in Raleigh, North Carolina, this the first day of April, 1983.

James B. Hunt, Jr.
Governor

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 93

Job Training Policy

WHEREAS, the State recognizes its responsibility to all of its citizens to offer them the opportunities for education and training that will allow them to reach their full employment potential; and

WHEREAS, the State recognizes a special responsibility to help its disadvantaged citizens obtain the education, training, and related services needed to be productive in an increasingly complex job market; and

WHEREAS, the State of North Carolina recognizes the need for a highly educated and skilled workforce to meet the needs of business and industry for continued growth and progress in a new era of technology; and

WHEREAS, a systematic and coordinated use of all of the State's resources for job-related education, training, and other services, including training provided by private businesses and industries will be necessary to meet these responsibilities; and

WHEREAS, to promote this systematic and coordinated use, the roles and responsibilities of the State agencies providing these services should be clearly defined;

NOW, THEREFORE, I HEREBY ORDER:

Section 1. The following definitions of the roles and responsibilities of State agencies shall be used in planning for the systematic use of all resources available to the State for job-related services:

I. THE PUBLIC SCHOOLS SYSTEM

The public elementary and secondary schools shall have primary responsibility for providing training in basic academic and employability skills. They shall assure:

A. that the public schools shall make all reasonable efforts to encourage every student to complete high school and acquire basic literacy, computation and communication skills;

B. that the public schools shall individually assist students in planning a productive high school program;

C. that the public schools shall provide students opportunities to learn about the world of work and the many opportunities available for chosen occupations;

D. that the public schools shall provide students with opportunities to acquire entry level skills for an appropriate group of occupations, preparatory training for community colleges, apprenticeships, or other training programs; and

E. that the public schools shall coordinate their efforts with other agencies and institutions so that students are prepared to progress smoothly and efficiently through training programs, into the workforce, or to college.

II. COMMUNITY COLLEGE INSTITUTIONS

Community and technical colleges shall be the presumptive deliverers of public post-secondary training designed to meet the needs of individuals, business and state development objectives. They shall assure:

A. that the community and technical colleges shall maintain an open door admissions policy;

B. that the community and technical colleges shall provide opportunities for adults to acquire basic academic skills;

C. that the community and technical colleges shall provide training in basic employability skills designed to help the disadvantaged enter the work force;

D. that the community and technical colleges shall provide training in skills which are needed for entry into technical, managerial, craft, service, and other occupations;

E. that the community and technical colleges shall provide training opportunities which combine structured training with hands-on experience, particularly in association with private employers;

F. that the community and technical colleges shall offer programs for retraining, upgrading and in-service development;

G. that the community and technical college system shall emphasize the New and Expanding Industry program, which provides training for plant start-up or expansion, as part of the State's economic development strategy; and

H. that the community and technical colleges shall coordinate their efforts with other agencies and institutions so that individuals can progress smoothly and efficiently and without undue duplication in acquiring skills.

III. THE CONSOLIDATED UNIVERSITY OF NORTH CAROLINA

The University of North Carolina is the State agency primarily responsible for providing professional and advanced technical training, and for conducting research needed to enhance economic development and improve human services. It should make all reasonable efforts to assure the following:

A. that the highest quality of professional and advanced technical training is available to meet the needs of the State's citizens and its business and professional community;

B. that preparatory and in-service training of teachers is provided that equips them to meet the difficult challenges of their profession effectively;

C. that research and development programs on employment and job training shall continue to be conducted; and

D. that continuing education opportunities are available for adults who need to upgrade their professional skills.

IV. THE STATE DEPARTMENT OF LABOR

The Department of Labor is responsible for encouraging the development of certified apprenticeship programs in the State. It shall make best efforts to assure the following:

A. that business and industries with apprenticeable trades are aware of the benefits of apprenticeship programs; and

B. that apprenticeship programs are coordinated with available training resources to make them as effective as possible in meeting business and industry needs.

V. THE STATE EMPLOYMENT SECURITY COMMISSION

The Employment Security Commission shall be the presumed provider of job market exchange services to match job-seekers with available jobs. It also has the responsibility for providing labor market information to assist training agencies in planning programs that are responsive to job market needs. It shall make best efforts to assure the following:

A. that the Employment Security System shall provide an accessible labor exchange, which shall include counseling and referral to appropriate training and services;

B. that accurate and usable labor market information is made available to assist in the planning of training programs; and

C. that services are provided to assist in the relocation of skilled workers who lose employment in one area due to economic conditions to areas where their skills are in demand.

VI. THE STATE DEPARTMENT OF CORRECTION

The Department of Correction has the responsibility of helping inmates, probationers, and parolees get the education, training, and jobs needed to lead productive lives. Consistent with it primary mission to protect the public, it shall make all reasonable efforts to assure the following:

A. that prison inmates are provided with effective education and job training programs with the services of community college institutions utilized where available; and

B. that prison programs are coordinated with programs in the community to help inmates make the difficult transition from prison to freedom.

VII. THE DEPARTMENT OF HUMAN RESOURCES

The Department of Human Resources has the responsibility for serving many disadvantaged groups, including public assistance recipients, the disabled, and juvenile offenders. It shall make best efforts to assure the following:

A. that the Division of Social Services coordinates its programs with those of job training agencies to give public assistance recipients the opportunity to get training and jobs;

B. that the Division of Vocational Rehabilitation gives opportunities to be trained and become productive to the State's disabled citizens; and

C. that the Division of Youth Services helps juvenile offenders get the guidance, counseling, and training they need to become productive.

VIII. THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

The Department of Natural Resources and Community Development has the responsibility of administering a program of community development assistance to local governments, and a program to assure equal employment and training

opportunity to all of the State's citizens. The Division of Employment and Training of this department shall be the State's lead agent in the coordination of federally funded job training programs for the economically disadvantaged. This department shall make all reasonable efforts to assure the following:

A. that the Division of Employment and Training shall utilize existing service delivery mechanisms to provide a statewide system of job training programs for the disadvantaged;

B. that the Division of Community Assistance shall make job opportunities available to the disadvantaged in projects that it develops; and

C. that the Division of Economic Opportunity will help coordinate the outreach, articulation, and counseling efforts of community-based organizations with programs of other state agencies to assure that participants have access to training, jobs, and related services.

IX. NON-PROFIT ORGANIZATION INVOLVEMENT

All State agencies that provide education, training, and job related services have an obligation to be responsive to the needs of the low-income population in our State and to anticipate future needs of these individuals. The poor of our State need input and involvement in the planning of these agencies. The State agencies shall make best efforts to assure the following:

A. that Community Action Agencies and other non-profit organizations' representatives are involved in the planning and implementation for all job training programs including representation on the local Private Industry Council.

B. that Community Action Agencies and non-profit organizations' representatives be involved in the process to notify and recruit eligible participants.

X. PRIVATE SECTOR INVOLVEMENT

All State agencies that provide education, training, and job related services have an obligation to be responsive to the demands of the current job market, and to anticipate future demands in their planning. Private sector input and involvement in the planning of these agencies is essential for this purpose. These agencies shall make best efforts to assure the following:

A. that business and industry representatives are involved in the planning and implementation of all job training programs;

B. that job trainees meet levels of basic and occupational skills determined by employers; and

C. that employers are encouraged to assist training agencies by helping trainers upgrade their skills, helping training agencies modernize their equipment, and providing job opportunities for trainees.

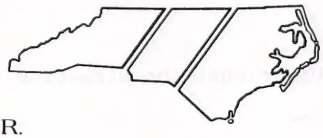
Section 2. This Order shall be effective immediately.

Done in the Capital City of Raleigh, this the eighth day of June, 1983.

James B. Hunt, Jr.
Governor



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 94

Termination of North Carolina Energy Institute and
The Governor's Study Commission on Energy Loans

WHEREAS, on January 3, 1978 I created the North Carolina Energy Institute under Executive Order 17; and

WHEREAS, on October 31, 1980, I created the Governor's Study Commission on Energy Loans under Executive Order 57; and

WHEREAS, the duties and responsibilities assigned to the North Carolina Energy Institute and the Governor's Study Commission on Energy Loans have been completed;

NOW, THEREFORE, I HEREBY ORDER:

Section 1. The North Carolina Energy Institute, as established by Executive Order 17 on January 3, 1978, is hereby terminated.

Section 2. The Governor's Study Commission on Energy Loans, as created by Executive Order 57 on October 31, 1980, is hereby terminated.

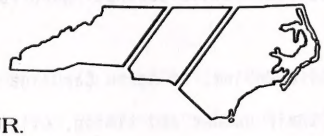
Section 3. This Order shall be effective immediately.

Done in the Capital City of Raleigh, this the tenth day of June, 1983.



James B. Hunt, Jr.
Governor

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 95

EXECUTIVE CABINET AWARDS FOR MANAGEMENT EXCELLENCE

WHEREAS, state government service to the citizens of North Carolina depends largely on excellence in management; and

WHEREAS, exemplary public service management goes largely unrecognized within and outside state government; and

WHEREAS, the existing Governor's Award for Excellence program established by Executive Order Number 53 provides for special recognition of meritorious or distinguished accomplishments of any permanent state employee subject to the State Personnel Act; and

WHEREAS, the Executive Cabinet of North Carolina (comprising the Governor, Lieutenant Governor, elected and appointed department heads of the Executive Branch of state government, and the President of the University of North Carolina System) wishes for employees in management positions to compete among peers for such special recognition; and

WHEREAS, the Executive Cabinet wishes to sponsor a specific and separate program for recognition of management excellence.

NOW, THEREFORE, IT IS HEREBY ORDERED

Section 1. I hereby create a program of Executive Cabinet Awards for Management Excellence.

Section 2. Awards shall be made annually to deserving permanent, full-time managers at the executive level (Executive Cabinet Award for Executive Excellence) and below the executive level (Executive Cabinet Award for Excellence in Management and Supervision).

Section 3. The Executive Cabinet of North Carolina shall approve guidelines for such awards, including their number and timing, eligibility criteria, and processes for nomination, screening, and selection.

Section 4. I hereby direct the Governor's Management Council to assist the Executive Cabinet in the development of such guidelines.

Section 5. Selection of recipients of these awards shall be made by a Committee for Recognition of Management Excellence, composed of the following ex officio members:

(1) The Lieutenant Governor,

(2) Six members of the Executive Cabinet who are department heads, on a rotational basis, under rules established by the Executive Cabinet,

(3) The Chair of the Governor's Commission for Recognition of State Employees,

(4) The Chair of the Governor's Commission on Governmental Productivity,

(5) The Chair of the North Carolina Management and Development Council,

(6) The President of the North Carolina State Employees Association, and

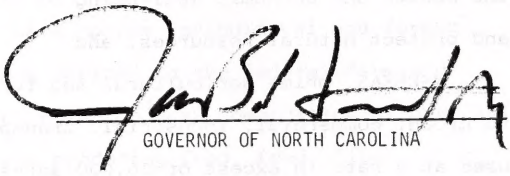
(7) The President of the North Carolina State Government Employees Association.

Executive Cabinet department heads shall serve annually, on a rotational basis prescribed in the guidelines promulgated under Section 3 above. The Governor shall appoint one of the members of the Committee to serve as Chair.

Section 6. The Department of Administration shall be responsible for providing the necessary funds, administrative assistance, and support services needed by the Executive Cabinet and the Committee to develop and implement this program.

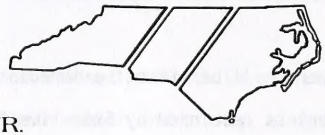
Section 7. This Order shall be effective immediately and shall remain in effect for two years unless rescinded by Executive Order, extended by Executive Order, or superseded by legislation.

Done in the Capital City of Raleigh, North Carolina, this the 1st day of July, 1983.



GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 96

Conservation of Prime Agricultural and Forest Lands

WHEREAS, it is the policy of the State of North Carolina, as set forth in N.C.G.S. 139-1, et seq., 106-583 and 113A-3, to provide for the conservation of soil to promote the efficient production and utilization of the products of the soil as essential to the health and economic well-being of its citizens, and to conserve and protect natural resources; and

WHEREAS, prime agricultural and forest lands are being converted to urban, commercial, industrial, transportation and water impoundment uses at a rate in excess of 36,000 acres per year; and

WHEREAS, the conversion of prime lands to irreversible non-farm uses may ultimately reduce food and fiber production capacity, thus forcing a reliance on marginally productive lands that would result in greater soil erosion, higher energy and fertilizer requirements and increased enviromental damage; and

WHEREAS, the public investment policies and actions of State agencies and instrumentalities contribute significantly to the conversion of prime agricultural and forest lands, when there may be alternatives available that are less destructive to our best lands; and

WHEREAS, the State seeks to support and assist compliance with the Farmland Protection Policy Act adopted by the United States Congress on December 22, 1981;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. (A) It shall be State policy that farm and timber production are the highest priority uses of prime agricultural and forest lands.

(B) All State agencies, as defined in N.C.G.S. 143B-3, under the jurisdiction of the Governor shall ensure that actions taken by those agencies will minimize the loss of prime agricultural and forest lands. As used herein, "agency" shall refer to an agency under the jurisdiction of the Governor.

(C) As used herein, the term "actions" shall mean all public investments and land acquisitions by the State.

(D) As used herein, the term "prime agricultural and forest land" shall mean those lands, as defined in the federal Farmland Protection Policy Act, which possess the best combination of physical and chemical characteristics for producing food, feed, fiber (including forest products), forage, oilseed, and other agricultural products (including livestock), without intolerable soil erosion. This policy does not apply to lands which are already in or committed to development projects such as water impoundment, transportation, and urban development.

Section 2. (A) To these ends I direct the following steps be taken:

1. The Secretary of the Department of Natural Resources and Community Development is hereby designated as the agent principally responsible for carrying out this directive. The Secretary shall review the actions of other State agencies and advise the Governor when it appears that any such action does not comply with the intent of this directive with respect to the conservation of prime agricultural and forest lands. The Secretary, in consultation with the Secretary of the Department of Administration, may establish such procedures as it deemed appropriate to ensure the timely cooperation of such other State agencies. All procedures shall, to the maximum extent possible, adhere to the state clearinghouse intergovernmental review process.
2. The Soil and Water Conservation Commission shall have the coordination responsibility for the program of conservation of agricultural and forest lands to be established by this Order.
3. The Commission, in cooperation with the Secretary and appropriate Federal, State and local agencies, shall develop, implement, and publicize the program.

(B) The Soil and Water Conservation Commission shall:

1. Seek the participation and support of each soil and water conservation district in North Carolina in carrying out this program.

2. Work closely with each district to develop a map of prime agricultural and forest lands within the district. The districts shall authenticate the county maps and shall work with the Commission to provide for the distribution of copies of each county's maps to appropriate public officials. The Secretary of Transportation, the Secretary of Administration, and the Chairman of the North Carolina Utilities Commission shall receive copies of the maps for each county.

3. Assist each district board of supervisors in developing local procedures for:

   a. The identification of proposed State actions subject to review by the local board;

   b. The review process to determine if proposed State actions will have significant adverse effect on prime agricultural and forest lands in the district; and

   c. The reporting of findings by the local board to include recommendations of feasible and prudent alternatives to the proposed State actions, when appropriate.

(C) Agencies under the jurisdiction of the Governor will provide sufficient information and incorporate the district review process into their normal review procedures consistent with this Executive Order. The review process must be completed and its outcome reported within 60 days after notice is mailed to the district

board. If an agency has not received a report from the district board or commission within 60 days, the agency may proceed without such report.

(D) An agency will give due consideration to comments of the district board of supervisors or the commission or both. If, after the review process is completed, an agency modifies its proposed action is a way which will or may substantially increase the adverse effects on prime agricultural and forest lands, or shift adverse effects to lands in a different location, the agency will repeat the review process.

(E) After consulting with the Commission, any State agency may classify its activities by size or type so as to exclude from the notice process de minimis cases which will not have a significant adverse effect on prime agricultural and forest lands.

Section 3. By June 30, 1984, all State agencies shall report to the Governor on (a) the overall effect of their actions, programs regulations, procedures and operations on the conversation of prime agricultural and forest lands; and (b) corrective measures that the agency intends to take to avoid and minimize the conversion of such lands to other uses; and (c) any statutory authorities whch may hinder compliance with this directive.

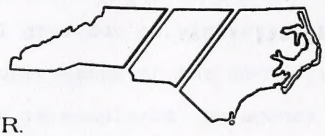
Section 4. This Order shall become effective January 1, 1984.

Done in the Capital City of Raleigh, North Carolina, this the Twenty-third day of August, 1983.



James B. Hunt, Jr.
Governor

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER 97

Moratorium on Terminating
Social Security Disability Benefits

WHEREAS, it is the policy of the State of North Carolina to protect the rights of disabled citizens; and

WHEREAS, approximately 10,000 North Carolinians have suffered the loss of Social Security disability benefits as a result of reevaluations ordered by the Social Security Administration; and

WHEREAS, these actions appear to have gone beyond the intent of the United States Congress; and

WHEREAS, many citizens are suffering from the termination of benefits even though their medical condition has not improved; and

WHEREAS, the United States Congress is considering legislation that would review the medical criteria used in the reevaluation of disability recipients;

NOW, THEREFORE, I, James B. Hunt Jr., Governor of the State of North Carolina, under the authority vested in me as Governor, do hereby direct the Secretary of the Department of Human Resources to place a moratorium on processing any initial recommendations for terminating benefits unless fraud has been demonstrated.

The review of claims forwarded by the Social Security Administration shall be permitted to progress to completion. Favorable recommendations shall continue to be processed in the normal manner.

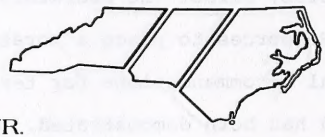
This order shall become effective immediately. It shall remain in effect until appropriate medical improvement standards are enacted by the United States Congress, or until modified or superseded by further Executive Order.

Done in the Capital City of Raleigh, North Carolina, this the Seventh day of September, 1983.



James B. Hunt Jr.
Governor

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 98

COMMISSION ON EDUCATION FOR ECONOMIC GROWTH

WHEREAS, education must play a central role in both short-term and long-range plans for economic growth; and,

WHEREAS, there is a strong link between good education and good jobs; and,

WHEREAS, technological change and global competition make it imperative to equip students in public schools with skills that go beyond the basic skills; and,

WHEREAS, numerous national reports have created a public awareness about the need to improve education; and,

WHEREAS, leaders of the business, government, and education communities have indicated a strong willingness to form partnerships to improve public education; and,

WHEREAS, many states with whom North Carolina competes for new and expanding businesses which bring in more good jobs have undertaken steps to dramatically improve their state's educational systems; and,

WHEREAS, North Carolina is currently a recognized national leader in efforts to improve public education; and,

WHEREAS, additional efforts are required to maintain the leadership that gives North Carolina a competitive edge;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby create the Commission on Education for Economic Growth.

Section 2. The Commission shall be composed of not more than fifty members to be appointed by the Governor to serve at the pleasure of the Governor. When making the appointments, the Governor shall consider individuals from the state's business, government and education communities who have demonstrated a strong interest in improving public education in North Carolina. To assure proper geographic representation of all areas of the state, the Governor shall appoint at least one person from each of the state's eight education regions. The Governor shall serve as Chairman of the Commission.

Section 3. The Commission shall meet at the call of the Governor. The Commission shall have the following goals and duties: (1) to develop and promote implementation of policies and programs to improve public K-12 education; (2) to create broad public awareness of the link between good schools and good jobs; (3) to promote new partnerships and alliances for improving education among the education, business, and governmental communities and parents, the media, and the other elements of our population; and (4) to encourage and support local district efforts in planning and implementing school improvement programs. The Commission shall conduct regional meetings to gather and disseminate information.

Section 4. I hereby create the Advisory Panel to the Commission on Education for Economic Growth. The Advisory Panel shall be composed of representatives from state-wide organizations which have demonstrated a strong interest in improving

education, as designated by the Governor. The Advisory Panel shall meet separately from the Commission. The primary purpose of the Advisory Panel is to review and comment on Commission proposals and recommendations.

Section 5. I hereby create the Friends for Improving Public Education. Friends for Improving Public Education shall be composed of volunteers who notify the Commission of their interest in submitting suggestions and comments to the Commission for its consideration. Volunteers who become members of Friends for Improving Public Education shall be informed of Commission activities and provided opportunities to submit written comments and suggestions for Commission consideration.

Section 6. The Governor may, from time to time, assign other duties to the Commission, the Advisory Panel, and the Friends for Improving Public Education.

Section 7. Staff and support services, including administrative costs and reimbursement for travel and subsistence expenses for Commission members, will be paid from funds made available from grants, state appropriations, and other sources as identified by and approved by the Chief Staff Person to the Commission.

Section 8. The Commission shall present a comprehensive set of recommendations for improving public K-12 education by March 15, 1984.

ction 9. This order shall be effective immediately.

n the Capital City of Raleigh, North Carolina, this thirteenth
ber, 1983.

JAMES B. HUNT, JR.
GOVERNOR

NUMERICAL INDEX TO SENATE AND HOUSE BILLS
1983 GENERAL ASSEMBLY
REGULAR SESSION 1983

Ratified Number refers to the Session Law Chapter number except when preceded by an R, in which case it refers to the Resolution number.

SENATE BILLS

S.B.	*Ratified Number*	S.B.	*Ratified Number*	S.B.	*Ratified Number*
1	435	62	34	138	80
2	R1	64	R5	139	533
6	5	67	320	140	462
7	12	68	51	141	891
8	13	72	35	144	85
9	15	73	52	146	865
10	14	74	463	148	55
11	6	75	380	150	130
12	30	83	495	151	257
13	143	84	139	152	193
15	R11	89	677	153	146
18	88	90	567	157	707
22	757	91	515	160	464
23	761	94	181	165	916
27	36	95	78	166	100
29	54	97	335	168	336
31	89	101	251	169	217
32	33	103	268	170	159
33	23	107	636	172	160
35	24	108	R6	173	218
37	267	109	588	177	443
39	449	110	210	181	589
40	421	113	R42	182	168
42	83	116	864	183	182
45	25	117	328	185	407
47	76	118	158	186	183
48	22	119	144	188	676
49	427	120	135	189	127
50	386	121	163	190	269
54	53	126	216	192	161
55	215	127	247	194	327
56	84	131	136	196	714
57	68	132	99	201	270
58	312	136	R12	202	140
59	863	137	79	204	169

S.B.	Ratified Number	S.B.	Ratified Number	S.B.	Ratified Number
206	R7	268	450	348	299
209	724	269	296	349	444
211	R30	271	258	350	283
214	184	273	302	352	337
215	R29	277	467	353	445
217	725	279	522	356	601
220	248	280	559	357	570
221	290	282	431	362	291
222	929	285	459	364	447
223	783	286	405	365	338
224	259	289	516	366	477
229	866	290	432	369	339
230	534	291	894	370	868
231	271	293	468	372	602
233	129	294	469	374	349
235	465	298	629	375	433
238	673	299	314	384	703
239	428	300	315	385	514
240	313	301	316	386	458
242	429	304	406	392	590
245	221	306	317	402	568
246	222	307	622	403	470
247	867	308	652	404	560
248	466	310	286	405	382
251	674	313	923	408	569
252	321	315	739	409	R41
253	282	318	653	431	341
254	284	321	451	432	448
256	285	322	287	447	310
258	R49	323	678	466	434
259	521	332	R52	497	342
261	430	333	784	671	736
263	214	337	414		
266	518	345	415		

HOUSE BILLS

H.B.	Ratified Number	H.B.	Ratified Number	H.B.	Ratified Number
3	1	78	56	152	165
4	2	79	605	156	499
5	26	81	19	157	329
6	7	82	164	160	90
7	27	83	32	163	47
8	38	84	20	164	843
14	155	85	41	165	63
17	28	86	61	166	162
18	220	93	10	167	131
19	29	95	42	168	102
20	31	96	701	177	832
21	762	97	498	181	91
23	3	98	R4	186	527
24	49	99	101	187	156
25	48	101	62	190	106
26	8	102	46	192	70
28	685	103	21	193	577
29	16	105	R3	194	484
31	73	109	110	195	147
33	881	111	43	196	252
34	842	112	4	197	245
35	17	115	637	198	436
36	39	116	483	199	387
37	631	118	383	200	132
38	623	119	77	201	388
43	40	120	44	202	813
52	303	121	87	206	785
53	717	122	592	209	288
54	R21	124	638	210	223
55	192	125	112	211	72
56	763	126	45	212	69
57	141	128	50	213	107
58	669	129	545	217	75
59	142	130	792	219	343
60	777	135	37	221	171
61	416	136	67	222	485
64	9	143	297	223	307
65	18	144	277	224	486
66	170	145	11	225	249
67	86	146	175	226	399
68	137	147	594	228	400
72	496	148	812	229	172
76	497	151	185		

H.B.	Ratified Number	H.B.	Ratified Number	H.B.	Ratified Number
230	793	314	166	414	309
231	173	315	740	415	231
235	410	316	93	417	R16
236	389	317	105	418	152
237	500	322	795	423	153
239	318	325	111	424	118
243	128	329	408	425	119
244	57	330	501	426	908
245	58	331	275	427	246
247	113	332	199	428	188
248	81	334	27	429	120
249	64	336	126	432	195
253	330	337	94	434	626
254	59	340	R19	436	679
255	794	342	254	437	121
256	108	343	670	439	176
257	103	344	95	440	196
258	82	345	525	441	122
260	895	347	550	442	177
261	390	348	186	443	502
264	74	349	96	444	323
265	778	350	97	448	332
270	401	356	639	449	224
274	148	357	114	451	844
275	149	359	98	454	123
278	713	362	194	455	561
279	R9	363	403	456	556
280	10	365	115	457	918
281	411	366	551	458	298
283	60	368	833	459	796
285	253	369	116	462	189
288	138	375	200	466	250
291	595	376	834	467	157
292	597	378	187	468	311
293	391	379	151	469	124
295	392	384	571	471	562
296	109	386	331	472	289
297	65	390	167	475	201
298	398	395	658	477	326
302	66	397	117	478	882
304	150	399	145	479	125
305	632	400	219	482	190
307	402	405	154	483	178
308	92	407	133	484	324
309	71	410	R15	485	304
311	104	413	640	486	225

H.B.	Ratified Number	H.B.	Ratified Number	H.B.	Ratified Number
489	896	572	213	636	353
490	374	573	206	637	354
493	526	574	346	638	355
495	228	576	236	642	745
497	503	579	422	643	306
499	229	580	437	644	687
500	230	581	847	645	775
501	179	583	836	646	R8
502	643	585	260	647	241
503	671	586	504	648	579
504	305	587	505	649	333
505	202	588	535	651	454
506	226	589	R20	653	292
507	134	590	347	654	688
509	845	591	348	658	624
510	276	592	573	660	R24
512	197	593	261	662	242
513	572	596	776	663	473
514	203	597	256	669	264
517	913	598	278	670	356
518	211	599	207	671	438
519	384	600	237	674	279
524	883	601	238	676	280
525	212	603	552	680	293
527	606	604	709	681	547
528	204	605	538	682	375
529	198	606	239	683	779
530	344	607	423	684	746
531	232	608	262	688	824
532	180	611	263	689	281
538	846	612	764	690	548
540	404	613	208	694	537
543	835	616	349	698	633
544	681	617	300	700	460
545	686	618	350	702	461
551	578	620	659	707	243
552	919	621	R31	709	786
553	233	623	351	711	528
554	546	624	487	713	294
561	205	625	352	716	585
562	234	626	904	719	376
565	426	627	209	720	855
566	235	629	191	723	529
567	741	630	273	724	787
569	345	631	488	726	848
570	272	635	240	729	506

H.B.	Ratified Number	H.B.	Ratified Number	H.B.	Ratified Number
731	580	830	909	925	689
733	718	832	557	926	662
734	174	833	682	932	837
737	625	838	531	934	R18
739	244	840	364	935	825
742	439	847	490	937	672
744	563	848	440	942	574
745	849	849	683	943	507
752	417	850	456	945	815
754	357	851	377	946	413
757	393	852	308	947	564
758	607	854	365	949	517
759	581	856	641	951	609
760	R21	858	418	954	766
764	319	862	366	955	663
765	265	863	367	956	378
767	773	864	742	965	509
773	634	865	441	969	419
774	536	866	368	970	610
776	730	870	369	978	541
779	920	873	255	979	442
784	334	874	474	988	R33
785	814	878	370	989	508
787	489	880	371	990	851
788	266	881	892	994	492
789	381	882	788	995	611
791	530	883	385	997	493
796	394	884	475	999	510
797	850	885	372	1000	542
798	358	886	539	1001	425
800	657	887	373	1003	731
801	359	890	608	1006	690
804	360	891	R14	1008	395
806	912	892	575	1009	664
808	412	893	457	1012	295
809	R13	905	774	1014	396
810	927	906	644	1016	665
811	227	909	765	1017	852
814	897	910	789	1018	853
815	325	911	645	1022	R22
816	361	913	532	1023	R25
817	455	916	540	1026	576
822	362	918	646	1028	816
823	274	919	379	1034	453
825	424	920	491	1036	409
828	363	924	661	1037	543

H.B.	Ratified Number	H.B.	Ratified Number	H.B.	Ratified Number
1040	790	1161	862	1307	860
1042	582	1167	711	1314	797
1044	596	1169	915	1318	859
1045	914	1173	694	1319	721
1048	301	1176	819	1326	798
1049	511	1177	839	1329	885
1050	838	1184	R38	1330	799
1052	26	1185	R50	1331	768
1061	420	1189	820	1342	791
1062	544	1191	884	1343	822
1066	512	1192	635	1344	737
1070	553	1196	840	1345	R51
1072	910	1197	628	1346	800
1075	612	1198	615	1353	752
1076	691	1199	651	1354	722
1077	513	1201	821	1356	901
1086	494	1202	565	1360	R44
1089	583	1206	647	1366	801
1090	898	1211	R48	1367	712
1092	520	1214	586	1368	826
1093	598	1215	695	1371	769
1104	584	1219	861	1374	753
1108	599	1221	719	1379	921
1112	854	1222	642	1380	781
1114	627	1226	696	1382	782
1116	692	1227	648	1384	754
1117	817	1228	587	1385	R45
1119	818	1231	616	1387	747
1122	899	1237	697	1388	734
1126	476	1239	698	1393	809
1127	710	1240	900	1394	738
1129	758	1241	649	1395	858
1130	715	1249	660	1400	770
1132	600	1253	780	1401	771
1135	R37	1254	617	1402	748
1137	856	1260	720	1403	802
1139	650	1263	716	1409	744
1140	555	1266	732	1411	R46
1142	905	1273	667	1415	827
1143	759	1277	743	1419	831
1144	613	1284	699	1420	828
1147	614	1288	566	1433	829
1154	28	1289	R40	1443	830
1156	693	1295	733	1460	803
1157	R23	1302	767	1463	810
1160	666	1306	728	1464	811

H.B.	Ratified Number	H.B.	Ratified Number	H.B.	Ratified Number
1465	841	1471	906	1476	928
1466	823	1472	893		
1468	857	1473	907		
1469	886	1475	922		

INDEX TO 1983 SESSION LAWS

Suggestions For Use: When looking for local legislation, look under the name of the particular county or municipality in which you are interested. When looking for a law that amends or repeals a certain session law, look under "Laws Amended or Repealed". This index itemizes the section numbers of two bills ratified during the 1983 Session: Chapters 761 (Appropriations) and Chapter 923 (Special Appropriations). The section numbers appear in parentheses immediately following the Chapter references.

A

Chapter

Accountants, Public—amendments 185

Administration, Secretary of:

Art Society in State buildings 717
Bid advertising 717
Day care license issuance standards 612
Grant cap to private colleges students 717
Motor vehicle rules 717
Olympics or Pan American participants, leave for 717
Purchases and contract authority 717

Administration, State Department of:

Advisory Budget Commission role changes 577
Aerial mapping program ..... 761(169)
Aging, Governor's Advisory Council on—designee 40
Clean Water Bonds—rules reporting requirement 577
Commuting policy ..... 761(173), 923(217)
Computer Commission—membership and powers 267
Computer services to State government 267
Energy Development Authority 652
Farmworker Council establishment ..... 923(205)
Fayetteville office building funds ..... 923(217)
Human Relations Council, membership and structure of 461
Incentive Pay for State Employees, Committee for 871
Juvenile Law Study Commission funds 910
Management Council, Governor's—creation and powers 540, 907
New Hanover Public Radio funds ..... 923(207)
Oil re-refining facility policy ..... 761(172)
Parking facility revenue bond amendments 168
Phone network, local government participation in state 406
Police-community relations funds ..... 923(219)
Public Employee Deferred Compensation Board of Trustees—
appointments and powers 559
Public radio funds ..... 923(206)

Chapter

Administration, State Department of:—continued
Public Telecommunications Agency—Personnel Act exemption 666
Publications, procedures regarding 866
Purchase registry, publication of 839
Rental housing policy ..... 761(175)
Seaboard Building renovation ..... 923(217)
Surplus property warehouse funds ..... 761(171)
Swamp land sales, personnel for ..... 761(170)
Towing powers and rights 420
Vehicle maintenance system task force ..... 761(183)
Western N.C. Public Radio funds ..... 923(206)

Administrative Procedure:
Administration Department rules authority 717
Administrative Procedure Act:
Administrative rules, repeal of 883
Certification of need for rule 857
De novo review option 919
Rule, definition of 641
Rule filing and publication ..... 641, 761(185)
Rules review to Governor 927
Substantial repeal ..... 923(52)
Attorneys fee, awards of 918
Children with special needs, appeal in cases of 247
Clean Water Bond rules issuance and reporting 577
Coastal Area Management Act:
Judicial review reference 518
Penalties 485
Permits 171-173, 307, 399, 400, 442, 518
Computer Commission rulemaking 267
Contract Appeals, Board of State ..... 761(187)
Correction Department rule procedure 147
Crime Victims Compensation Commission procedure 832
Day care:
Inspections 261
Rule-making flexibility 612
Departmental rules filing requirement 76
Energy Division data collection rules 475
Environmental Management Commission procedures 296
Fair Housing Act procedures 422
Grain dealers—uniform scale tickets requirement 482
Human Resources, Department of:
Fund withdrawal 5
Landfill regulations 546
Inspection warrants—fire-damaged premises 739

Chapter

Administrative Procedure:—continued
License suspension procedures 538
Marine Fisheries Commission:
Permits appeals 258
Rules and procedures 221, 570, 619-621
Mental illness facilities licensure 718
PCB landfills 605
Property Tax Commission appeals deadline 565
Public health law rewrite 891
Public hospital law recodification 775
Residential child care facilities appeals 637
Rules review structure 927
Set-off debt collection hearings procedure 419
Social worker certification board 495
Special conservation officer—appointments 484
State purchase and contract 717
Teacher employment and dismissal 770
Technical amendments 768
Temporary rules filing procedure 857
Time share arrangements 814
Uranium mining rules 279
Vehicle post-towing procedures 420
Wildlife Resources Commission—hunting with handguns 492

Administrative Rules Review Commission, Governor's—creation and authority 927

Adoptions—see Parent and Child

Advisory Budget Commission—see Appropriations

Aeronautics Council—membership 325

Affirmative Action—see Discrimination

Aged (See also Appropriations; Handicapped Persons, and Human Resources, State Department of):
Adult special assistance 14
Aging, Governor's Advisory Council on 40
Domiciliary homes—see Health Care Facilities
Elderly screening ..... 923(168), 923(172)
Older Americans Act matching funds ..... 761(69)

Aging, Governor's Advisory Council on—appointments 40

Agricultural Facilities Finance Agency, N.C.—creation 789

Agriculture:
Agriculture Facilities Finance Agency—powers 789
Agriculture facilities projects—constitutional amendment 765
Apple-grading penalty 248

Chapter

Agriculture:—continued
Boll weevil eradication 136
Charlotte Farmer's Market ..... 923(226)
Commodity associations audit cost recovery 395
Crop seed certification 800
Fertilizer amendments 146
Farm vehicle weight limit exemption 407
Farmworker Council creation ..... 923(205)
Gasohol special tax exemption 591, 760
Grain dealers—uniform scale ticket requirement 482
Hatchery and chicken dealers amendments 290
Innovation Research Fund, N.C. 899
Involuntary servitude crime 746
Land sales, proceeds from 717
Land, use-value classification for 821, 826
Littering while transporting farm products 890
Livestock, swine, and poultry equipment sales tax 805
Meat-grading act repeal 248
Peanut marketing act repeal 248
Poultry producers—wood conversion tax credit . 929
Public health law rewrite 891
Scale technician requirements 111
Western N.C. Agricultural Center sales 476
Yam assessments 246

Agriculture, Commissioner of:
Agriculture Facilities Finance Agency, membership on 789
Boll Weevil eradication 136
Commodity associations audit cost recovery 395
Computer Commission membership 267
Farmworker Council membership ..... 923(205)
Fertilizer amendments 146
Salary ..... 761(208)
Scale technician amendments 111
Yam assessments 246

Agriculture, State Board of:
Grain dealers, uniform scale ticket requirement for 482
Hatchery and chicken dealers, rules authority over 290

Agriculture, State Department of:
Boll Weevil eradication 136
Charlotte Farmers' Market funds ..... 923(226)
Hampton Mariners Museum funds ..... 923(230)
Scale technician requirements 111
Western North Carolina Market Development funds 852

Chapter

Airports and Aircraft—State aid, amounts and eligibility for 319

Alamance County—Mebane, Town of—see that heading

Alarm Systems Licensing Board—creation 786

Albemarle, City of—land sale 60

Alcoholic Beverage Control Commission—chairman's salary 717

Alcoholic Beverages:
- ABC Boards—civil liability under dram shop law 435
- ABC Chairman's salary ..... 761(216), 717
- Age for possession 435, 740
- Alcohol and drug education, school for ..... 761(155)
- Alcoholism funds study ..... 761(68)
- ALE funding from bailment surcharge ..... 761(133)
- Bingo-related violations 896
- Black Mountain Detoxification program changes 717
- Chemical testing provisions rewrite 435
- Community service in DWI cases, program for ..... 761(154)
- Community theatre ABC permits 583
- Dram shop liability 435
- Driving while impaired offense 435
- Election eligibility—ABC and Local Act 457
- Elections in townships 113
- License and permit fee 713
- Permit-holder—civil liability under dram shop law 435
- Permits:
  - Off-premises unfortified wine 113
  - Transportation 457
- Sacramental wine tax refund 792
- School property, consumption on 917
- Tax proceeds distribution 650
- Wine franchise amendments 85

Alleghany County:
- Junk car regulation 841
- Pawnbrokers in uncorporated areas 382

Animals (see also Livestock; and Wildlife):
- Disposition from shelters and pounds 834
- Larceny 35
- Public health law rewrite 791

Annexation—see Municipal Corporations

Appellate Defenders—see Courts

Appropriations:
- Aberdeen Railroad Depot funds ..... 923(64)

Chapter

Appropriations:—continued
Aberdeen Station funds ..... 923(89)
Abortion funds limitation ..... 761(38)
ACCEPT Fund ..... 923(199)
Access guide for the disabled ..... 761(128)
Adult Day-Care Program funds 876
Adult Developmental Activity Program funds 882
Agriculture, Forestry, Seafood Awareness Study Commission 915
Advisory Budget Commission:
Capital improvements authorization 757, 803
Incentive pay for State employees, role in approving 872
Membership 48
Separations of powers, acts for the 577, 717
AFDC supplement ..... 761(45)
Agriculture program funds ..... 761(115)
Ahoskie Historical Survey funds ..... 923(22)
Alamance County Arts Council ..... 923(85)
Alamance Historical Museum funds ..... 923(47)
Albemarle Museum Funds ..... 923(136)
Alexander Dickson House funds ..... 923(59)
Alleghany Sheltered Workshop ..... 923(182)
American Dance Festival funds ..... 923(124)
Andrew Jackson Memorial funds ..... 923(121)
Anson County forest resources headquarters 853
Archeological Site funds ..... 923(8)
Area Mental Health funds ..... 761(28)
Art in State Buildings, funds for 862
Asa Biggs Homeplace funds ..... 923(28)
Autistic Adults funds ..... 761(66)
Autistic Adult Group Home ..... 923(198)
Autistic Children ..... 923(162)
Autistic Children funds ..... 761(42)
Ayden Painting Display funds ..... 923(33)
Belle Chere Festival funds ..... 923(146)
Biotechnology Research Center funds 899
Bladen Fire Station funds ..... 923(244)
Bladen Industrial Park Study funds ..... 923(246)
Blandwood Dependencies Fund ..... 923(115)
Block grant funds ..... 761(4), 761(56)
Blowing Rock Arts Center funds ..... 923(53)
Bright Leaf Hoedown funds ..... 923(44)
Broadway Park funds ..... 923(256)
Brunswick boat ramp funds ..... 923(237)
Brunswick Technical Institute van 928

Chapter

Appropriations:—continued
Brunswick Town Historic Site funds ..... 923(66)
Brushy Mountain Apple Festival funds ..... 923(111)
Buncombe Dry Ridge Museum funds ..... 923(72)
Buncombe Folk Art Center funds ..... 923(107)
Buncombe juvenile detention pilot projects funds ..... 761(63)
Burke Courthouse funds ..... 923(13)
Burlington Friends of the Carousel ..... 923(86)
Cabarrus Courthouse funds ..... 923(15)
Campbell House funds ..... 923(62)
Cannon Memorial YMCA Library funds ..... 923(106)
Capital improvement 757, 803
Capital improvements—University of North Carolina 851
Carolina Theatre funds ..... 923(20), 928
Carson Cabin funds ..... 923(11)
Carteret Courthouse funds ..... 923(132)
Carteret, Onslow Elderly Screening ..... 923(168)
Cashie River boat access ..... 923(224)
Caswell Civic Center funds ..... 923(100)
Cedar Island boat ramp funds ..... 923(259)
Charlotte Farmers Market ..... 923(226)
Charlotte Hawkins Brown Site funds ..... 923(142)
Chatham County Crisis ..... 923(176)
Chatham Sheltered Workshop ..... 923(177)
Cherokee Museum funds ..... 923(46)
Chicamacomico Station Funds ..... 923(24)
Child Abuse and Neglect Prevention programs 894
Child abuse assessment funds ..... 761(65)
Children's Center of Shelby ..... 923(180)
Cleveland County Courthouse funds ..... 923(79)
Cleveland Historical Museum funds ..... 923(27)
Cleveland Memorial Library funds ..... 923(84)
Coastal Carolina Community College ..... 923(158)
Columbus County beaver population control ..... 923(239)
Columbus Courthouse funds ..... 923(147)
Columbus 100 Committee funds ..... 923(249)
Community Penalties Program 909
Community Residential Centers for Mentally Retarded Children 885
Community Services block grant ..... 761(124)
Community Services Punishment Program 881
Computer funds—U.N.C.-Chapel Hill 757
Constitutional Amendments Publication Commission 844
Courts, Administrative Office of the 881
Covington Park ..... 923(255)

Chapter

Appropriations:—continued
Craven County Forest Resources headquarters 853
Crime Reduction Program ..... 923(165)
Cued Speech Center ..... 761(43)
Cultural Resources Eastern Office funds ..... 923(144)
Cumberland Development funds ..... 923(252)
Cumberland Library funds ..... 923(105)
Cupola/Barker House funds ..... 923(40)
Current Operations:
General Fund ..... 761(2)
Highway Fund ..... 761(3)
Davidson Alcoholic Care ..... 923(187)
Davidson Arts Council funds ..... 923(93)
Davidson Inventory Publication funds ..... 923(74)
Davie Schools asbestos removal ..... 923(153)
Day care coordinating agencies matching funds 847
Debt service and interest payment ..... 761(18)
Departmental expenditures authorization ..... 761(10)
Developmentally Disabled Community Program funds ..... 761(70)
Disability Review Commission funds 880
Disabled Care Project ..... 923(159)
Discovery Place funds ..... 923(112)
Displaced Homemakers Program ..... 923(192)
Domiciliary home funds ..... 761(32), 761(33)
Downtown Senior Center ..... 923(191)
Duplin Airport funds ..... 923(250)
Durham Arts Center funds ..... 923(141)
Durham Rescue Mission, Inc. ..... 923(186), 928
Durham Technical College high technology training ..... 761(103)
East Arcadia Fire Department ..... 923(263)
Eastern Music Festival funds ..... 923(65)
Eckerd Wilderness Camping Program ..... 761(44)
Edgecombe Historic Fund Appropriation ..... 923(41)
Education Resource Center ..... 923(149)
Eno River land acquisition funds 853
Enrollment decline offset ..... 761(91)
Estey Hall funds ..... 923(78)
Excellence in Science and Mathematics Program ..... 923(155)
Experiment in Self-Reliance ..... 923(196)
Family Support Centers ..... 923(160)
Farmworker Council creation ..... 923(205)
Farris Park funds ..... 923(138)
Fayetteville Branch Museum funds ..... 923(113)
Fayetteville Office Building ..... 923(217)

Chapter

Appropriations:—continued
Financial responsibility enforcement ..... 761(150)
Fleming House funds ..... 923(16)
Forest resources county headquarters 853
Forestry Service funds ..... 923(233)
Forsyth Nature Center funds ..... 923(18)
Fort Fisher Ferry Guide funds ..... 923(94)
Fort Macon funds ..... 923(228)
Frank Holder Dance Company funds ..... 923(54)
Fremont Community Center funds ..... 923(81)
"From This Day Forward" funds ..... 923(5)
Gallery Theatre funds ..... 923(21)
Garland Recreational Department ..... 923(208)
Garner Volunteer Fire Department funds ..... 923(215)
Gaston Art and History Museum funds ..... 923(137)
Gates Courthouse funds ..... 923(38)
Gladiator Boxing Club ..... 923(212)
Goldsboro Arts Council funds ..... 923(83)
Granville County Arts Council funds ..... 923(104)
Granville Historical Society funds ..... 923(103)
Granville Senior Citizens Park funds ..... 923(102)
Great Smokey Mountain Festival funds ..... 923(73)
Great Smokey Mountains National Park funds ..... 923(90)
Greensboro Crime Prevention ..... 923(221)
Grifton painting display funds ..... 923(32)
Grimes Mill/Hall House funds ..... 923(131)
Guardian ad litem program funds ..... 761(160)
Guilford Offender Aid and Restoration Funds ..... 923(218)
Halifax Community College New Industry Training ..... 761(101)
Hamlet Railroad Depot funds ..... 923(43)
Hampstead Library funds ..... 923(96)
Hampton Mariner's Museum funds ..... 923(230)
Harmony Hall funds ..... 923(1)
Hayesville Water System ..... 923(175)
Haywood Hall funds ..... 923(126)
Haywood Technical College high technology training ..... 761(103)
Hazardous Wastes Study Commission 926
Hazelwood appropriation ..... 923(225)
Hearing-impaired children, funds for professionals to help 856
Henderson traffic control funds ..... 923(229)
Hiddenite Center Project ..... 923(14)
High Point Environmental Center ..... 923(240)
High Technology Training funds ..... 761(102)
Highway Patrol Station funds 757

Chapter

Appropriations:—continued
HELP, Inc. ..... 923(183)
Henderson Student Association Funds ..... 923(101)
Hickory Arts funds ..... 923(134)
Hillsborough Cemetery funds ..... 923(60)
Historic Bethabara funds ..... 923(36)
Historic Halifax funds ..... 923(67)
Historic Hope funds ..... 923(25)
Historic Murfreesboro funds ..... 923(3)
Historic Preservation Fund Appropriation ..... 923(12)
History, Museum of—renovation 757
Holy Angels Nursery funds ..... 923(170)
Homeownership Assistance funds ..... 923(203)
Hotel Freeman funds ..... 923(4)
Hyde County ADAP funds ..... 923(163)
Innovation Research fund 899
Instructional supplies allowance ..... 761(89)
Insurance Department data processing funds 861
International Folk Festival Funds ..... 923(143)
Involuntary Outpatient Commitment funds 864
Joel Lane House funds ..... 923(45)
John Carson House funds ..... 923(58)
John C. Campbell Folk School funds ..... 923(123)
Johnston Airport funds ..... 923(251)
Jones County auditorium funds 853
Juvenile Center Chapel ..... 923(167)
Juvenile Detention funds ..... 761(63)
Juvenile Law Study Commission 910
Kenly Development funds ..... 923(260)
Kernersville Civitan Park ..... 923(254)
King-Bazemore House funds ..... 923(7)
Lakeland Arts Center funds ..... 923(48)
Latham House funds ..... 923(39)
Lenoir Community College high technology trainig ..... 761(103)
Learning Together ..... 923(174)
"Liberty Cart" funds ..... 923(110)
Lincoln Highway Patrol funds ..... 923(236)
Lutheran Family Services funds 845
McDowell Committee of 100, Inc., funds ..... 923(242)
Madison County Day Care funds ..... 923(189)
Malcolm Blue Farm funds ..... 923(26)
Marks House funds ..... 923(30)
Martin County Players funds ..... 923(145)
Maternity home care funds 846

Chapter

Appropriations:—continued
Matthews HELP Center ..... 923(164)
Mecklenburg Crime Reduction ..... 923(171)
Mecklenburg Custody and Visitation Dispute Medication program funds ..... 761(162)
Mecklenburg Minority Affairs Office ..... 923(179)
Mecklenburg Parks and Recreation ..... 923(262)
Mecklenburg Youth Council ..... 923(178)
Medicaid Reserve fund ..... 761(62)
Medical Cost Containment, Legislative Commission on 875
Medicine, Institute of—Creation ..... 923(197
Mendenhall Plantation Funds ..... 923(57)
Mentally Ill Program funds ..... 761(47)
Mill Prong funds ..... 923(128)
Mitchell Community College ..... 923(148)
Moore Regional Park appropriation ..... 923(241)
Morganton Center-Hearing Impaired ..... 923(161)
Motor vehicle license revocation funds ..... 761(150)
Motor Vehicles, Division of—highway funds to 854
Mount Olive Depot funds ..... 923(80)
Mountain Youth Resources ..... 923(200)
Murdoch Center construction ..... 761(39)
Nash Tech funds ..... 923(154)
Natural Resources Center—N.C. State University 757
Neural Tube Defect funds 843
Neuse River Basin Water Quality Study 924
New Clemmons Fire Department ..... 923(214)
New Hanover County Museum 928
New Hanover Public Radio ..... 923(207), 928
New Jobs and Skills programs ..... 761(100)
Newbold-White House funds ..... 923(114)
N.C. Dance Theatre funds ..... 923(130)
N.C. Flag in 4th Grade ..... 923(152)
N.C. Spot Festival funds ..... 923(95)
Northampton Courthouse Funds ..... 923(37)
Northampton Museum funds ..... 923(2)
Northeast Center for Human Development ..... 923(166)
Nursing Education funds ..... 761(106)
Ocracoke jail facilities ..... 761(186)
Old Caswell County Courthouse funds ..... 923(52)
Old Richmond Courthouse funds ..... 923(125)
Old Salem funds ..... 923(120)
Onslow County Area Mental funds ..... 923(184)
"Operation Get Smart" funds ..... 923(220)

Chapter

Appropriations:—continued
Opportunities Industrial Center funds ..... 923(234)
Orange County Sheltered Workshop ..... 923(202)
Oyster Festival funds ..... 923(98)
Parkland acquisition 853
Pender County Museum Funds ..... 923(50)
Perinatal Program funds 868
Person elderly screening ..... 923(169)
Person Place funds ..... 923(118)
Piedmont Technical College Skills Training Center ..... 761(102)
Pilot Mountain Recreational Park ..... 923(232)
Planning regions aid ..... 761(30)
Poison Control Center funds ..... 761(64)
Police/Community Relations Training ..... 923(219)
Polk Industrial Development funds ..... 923(248)
Project New Start and Day Camp Handicapped Program ..... 923(195)
Public Radio grants ..... 923(151)
Radar Act implementation 877
Rainbow House for Terminally Ill Children ..... 923(188)
Reeves Center funds ..... 923(243)
Regional Arts funds ..... 923(69)
Reid House funds ..... 923(34)
Rhododendron Festival funds ..... 923(119)
Roanoke Island Center funds ..... 923(140)
Roanoke River Boat funds ..... 923(223)
Robeson County Community Center ..... 923(181)
Robeson Prerelease Center funds ..... 923(222)
Rock House Preservation Commission 928
Rockingham-Richmond Economic Development ..... 923(253)
Rockingham School Land funds ..... 923(157)
Rockingham Theatre funds ..... 923(61)
Rutherford County Library funds ..... 923(82)
Rutherford Industrial Development funds ..... 923(247)
St. Joseph's Historic Foundation funds ..... 923(127)
Sampson Tech funds ..... 923(156)
Seaboard Coast Line Building renovation ..... 923(217)
Schiele Museum funds ..... 923(116)
School bus purchase ..... 761(80)
School enrollment decline offset ..... 761(91)
School for Deaf equipment funds ..... 923(201)
Scotland County forest fire equipment storage ..... 923(233)
Selma Union Station funds ..... 923(75)
Senior Citizens Park ..... 923(213)
Seven Springs Boat Access ..... 923(235)

Chapter

Appropriations:—continued
Shakespeare Festival funds ..... 923(68)
Signal 25 Communicators 879
Silvermont Restoration funds ..... 923(49)
Small Business Finance Study Commission 914
Smith-McDowell House Museum funds ..... 923(56)
Soil, Water Conservation funds ..... 923(245)
Southmont Community Center funds ..... 923(91)
Spencer Shops funds ..... 923(133)
Stanly Agriculture Building funds ..... 923(227)
Starnes Auditorium funds ..... 923(108)
Stokes County Survey funds ..... 923(42)
Stonewall Funds ..... 923(31)
"Strike At The Wind" funds ..... 923(10)
Submerged land attorneys ..... 761(168.1)
Surry Field School funds ..... 923(77)
Swain County Courthouse funds ..... 923(63)
Swansboro Archaeological Project funds ..... 923(19)
Swansboro Bicentennial funds ..... 923(88)
Swift Creek Township Protection ..... 923(204)
"Sword of Peace" funds ..... 923(35)
Symphony Society endowment ..... 761(118)
Tammy Lynn Foundation ..... 923(173)
Tater Hole Boat Ramp funds ..... 923(261)
Teacher duty-free period funds ..... 761(87)
Teacherage Funds, Historical Currituck ..... 923(129)
Technological Development Center, N.C. 899
Teen Center youth funds ..... 923(210)
Temple Theatre Restoration funds ..... 923(117)
Thomas Wolfe Visitor Center funds ..... 923(139)
Thomasville Garden Club funds ..... 923(92)
Tobacco Festival funds ..... 923(29)
Tobacco research funds ..... 923(150)
Tommorow Program funds ..... 761(131)
Town Creek Indian Mound funds ..... 923(136)
Town Creek Park funds ..... 923(99)
Transylvania Courthouse funds ..... 923(55)
Tribal Training funds ..... 923(216)
Union County Courthouse funds ..... 923(83), 923(122)
Union Rescue Squad ..... 923(209)
"Unto These Hills" funds ..... 923(51)
Urban Ministries Center, Inc. ..... 923(185), 928
Volunteer Fire Department Equipment funds ..... 923(97)
Wake Arts Together Center funds ..... 923(76)

Chapter

Appropriations:—continued
Wake Elderly Screening ..... 923(172)
Wake Technical College high technology training ..... 761(103)
Warren County PCB relief funds 849
Water resources projects 757
Waynesborough Park appropriation ..... 923(257)
West Onslow beach ramp funds ..... 923(258)
Western N.C. Development funds ..... 923(231)
Western N.C. Group Home funds ..... 761(67)
Western N.C. Market development funds 852
Western N.C. Public Radio funds ..... 923(206)
Weymouth Center funds ..... 923(23)
White Oak River study funds continuation 869
William Penn Auditorium funds ..... 923(71)
Willie M. funds ..... 761(77)
Winston-Salem Urban Arts funds ..... 923(109)
Winston's Brown Hall funds ..... 923(17)
Women in Non-Traditional Jobs ..... 923(211)
Wright Brothers Anniversary funds ..... 923(6)
Yancey Development funds ..... 923(238)
Yancey 150th Birthday funds ..... 923(70)
YMCA funds ..... 923(193)
YMCA Youth Development ..... 923(194)
YMI Cultural Center funds ..... 923(9)
Youth Career Development Project ..... 923(190)

Architects—licenses 47

Armed Forces—see Militia

Arrests—see Criminal Procedure

Art—see Cultural Resources

Art Society, N.C.:
Health benefit 499
Public buildings, space in 717
Retirement coverage exemption 412

Art in State Buildings, Committee on:
Funding 862
Membership 717

Artists—artwork on consignment 822

Asheville, City of:
Governor's Western Residence repair assurance 602
Motor vehicle tax 75, 188
Ordinance publication 117
School construction contracts 360

Chapter

Asheville, City of:—continued
School employee payday 352

Assessments—see Taxation

Atlantic Beach, Town of—condominium definition for annexation 341

Attorney General—see Justice, State Department of

Attorney, Powers of—short form method and requirements 626

Attorneys at Law (see also Bar, N. C. State):
Disciplinary procedures 390
Evidence Code 701
Fees:
Agency decisions, successful challenges to 918
Appointed counsel quick payment 135
Crime Victim Compensation cases 832
Indigent counsel fee fund ..... 761(158)
Involuntary commitment cases 638
Unfair trade practices cases 417
Fingerprint requirement 177
Hospitalized indigents—counsel selection and pay 275

Auctioneers Commission, N.C.:
Licensing amendments 751
Recovery fund creation and requirement 603

Auditor, State:
Auditing exemptions ..... 761(19), 923(217)
Computer Commission membership 267
Law revision 913
Public investment reports from financial institutions 158
Salary ..... 761(214)

Automobiles—see Motor Vehicles

Avery County:
Beech Mountain, Town of—see that heading
School day length 703
Street numbers to private roads 98

Ayden, Town of—annexation 105

B

Bail Bondsmen—license fees 790

Bakersville, Town of—annexation 660

Banks and Banking (see also Credit Unions; and Savings and loan Institutions):
Account access—small estates 198
Banking law amendments 214

Chapter

Banks and Banking (see also Credit Unions; and Savings and loan Institutions):—continued
Currency transaction reports 815
Directors, terms and regulation of 24
Forgery definition clarification 397
Law amendments 214
Loans:
Fair Housing Act—unlawful discrimination 522
Housing Finance Agency loans 148
Interest rates 126
Public investment from governments 158
Returned check processing fee 529
Second mortgage fees 541
Securities Act coverage 817

Banks, Commissioner of:
Commission membership and terms 328
Funeral and burial contracts 657
Salaries ..... 717, 761(216)

Bar, N. C. State:
Composition 390
Disciplinary procedures 390
Fingerprint requirement 177
Judges and justices inactive status 589

Barber Examiners, State Board of—salary of executive director 717

Battleboro, Town of—motor vehicle tax 75, 188

Beaufort, Town of:
Land sales or lease 100
Washington, City of—see that heading

Beech Mountain, Town of—beer and wine referendum 285

Bertie County:
Regional jail participation 716
Weapons permits 151

Bethel, Town of—motor vehicle tax 75, 188

Bids—textbook bids procedure 549

Bingo—law amendments ..... 896, 923(217)

Bladen County—Elizabethtown, Town of—see that heading

Blind Persons—see Handicapped Persons

Boards of Education—see Education, Boards of

Boards of Elections—see Elections; and Elections, Board of

Boards of Health—see Public Health

Chapter

Boats:
Appearance waiver—boating offenses 586
Fisheries licensure requirements 570
Noise limits on lakes 787
Numbering requirement 446
Registration transfer requirements 194

Boiler and Pressure Vessel Rules, Board of—travel allowances 717

Bonds and Notes (see also Surety Bonds):
Agricultural Facilities Finance Agency 789
Clean water bonds authorization repeal 908
Energy Development Authority revenue bonds 652
Joint municipal power agencies—single municipality authority 574
Parking facility revenue bond amendments 168
Public contract payment and performance bonds 818
Public hospital authority 775
Revenue bonds state issuance 554
Separation of Powers Bond Act—Advisory Budget Commission role changes 577
Solid waste management facilities revenue bonds 795

Brevard, City of—motor vehicle tax 75, 188

Bridgeton, Town of—motor vehicle tax 75, 188

Brunswick County:
Caswell Beach, Town of—see that heading
Criminal sessions of court 20
Holden Beach, Town—see that heading
Ocean Isle, Town of—see that heading
School bus use 647
Smithville, Town of—see Southport, Town of
Southport, Town of—see that heading

Budget and Management, Office of State:
Administrative rules requiring funds, filing of ..... 761(185)
Agency reorganization fund transfer repeal 717
Block grant rules manual ..... 761(57)-(58)
Budget reporting requirements ..... 761(14)
Capital improvement projects funding 717
Clean Water Bonds, role in approval of 577
Computer Commission membership—budget officer 267
Continuation of 1983 fundings 655
Great Smokey Mountains Park funds ..... 923(90)
Incentive Pay for State Employees, Committee for 871
Local program continuation costs ..... 761(13)
Management Council, Governor's—membership 540
Murdoch Center construction ..... 761(39)

Chapter

Budget and Management, Office of State:—continued
Need-based student loans ..... 761(176)-(180)
Pool account, local government unemployment compensation 717
Prison enterprise reports 717
Reserve fund from regained licenses 435
Salary adjustment transfers ..... 761(15)
Self-supporting agencies, designation of 717
Separation of powers 577, 717
State buildings, fund transfer for fire protection of ..... 761(21)
Surplus property warehouse operation ..... 761(171)
Teacher salary contingency authority ..... 761(78)
Vehicle maintenance system task force ..... 761(183)

Budgets—see Appropriations

Building Codes:
Code officials—certain certificate effective dates 90
Inspection department procedures 377
Insulation enforcement option 377

Buncombe County:
Asheville, City of—see that heading
County commissioner elections, salaries 129
County-Manager government form 129
Dairy herd law repeal 434
Motor vehicle tax—all municipalities 75, 188
Occupancy tax authorization 908
School capital fund commission 134, 534
Woodfin, Town of—see that heading

Burial Association Commission, N.C. Mutual:
Budget approval 717
Salaries 717

Burial Associations, Mutual—see Insurance

Burials—see Cemeteries

Burke County:
Morganton, City of—see that heading
Sales tax use 273
Valdese, Town of—see that heading

Buses—see Motor Vehicles; and Schools

Business Associations (see also Corporations):
Abandoned property procedures 204
Advertising supplements, sales tax exemption for 873
Business Opportunities Sales Act application 421
Condominium conversions, renter protection in 624
Consumer credit sales—lease purchase contracts 686

Chapter

Business Associations (see also Corporations):—continued
Consumer protection violations, penalties for 722
Innovation Research Fund, N.C. 899
Insurance company formation—capital requirements deadline extension 472
Interest rates 126
Partnership debt obligations interest rate 719
Public officer conflict of interest 544
Returned check processing fee 529
Soft drinks license tax 379
Tax Adjustment Act 713
Technological Development authority, N.C. 899
Transporter plates eligibility 426
Video games tax 713
Wine franchise amendments 85

Butner:
Fire and Police Protection District, creation of 830
Land sales, proceeds from 717
Sewage treatment funds ..... 761(76)
Special police officers ..... 761(165)
Water system funds ..... 761(66)

C

Cabarrus County:
Concord, City of—see that heading
Kannapolis, City of—see that heading
Precinct boundaries 225
Property tax discounts 823
Traffic control officer exemption 483

Cajah Mountain, Town of:
Annexation powers 636
Education board filing period 121
Incorporation 52

Caldwell County:
Cajah Mountain, Town of—see that heading
Lenoir, City of—see that heading

Camden County—hunting from roads 274

Canton, Town of—extraterritorial jurisdiction 301

Cape Carteret, Town of—motor vehicle tax 75, 188

Capital Building Authority, N. C.:
Construction notice requirements 717
Contracts authority 717

Chapter

Capital Building Authority, N. C.:—continued
Membership and quorum requirements 717
Reports 717

Capital Improvements—see particular category; and Appropriations

Carrboro, Town of:
Charter revisions 730
Teacher payday 112

Carteret County:
Atlantic Beach, Town of—see that heading
Beaufort, Town of—see that heading
Cape Carteret, Town of—see that heading
Emerald Isle, Town of—see that heading
Junk car regulation 841
Morehead City, City of—see that heading
Sheriff—surplus auto purchase 80, 736

Caswell Beach, Town of—Fort Caswell jurisdiction 743

Caswell County:
Land sale 152
Special deputy program and benefits 344

Catawba County:
Boats to respond to sirens or lights 356
Fireworks displays—incorporated municipalities 116
Hickory, City of—see that heading
Life preserver requirement 200
Maiden, Town of—see that heading
Newton, City of—see that heading

Certificates of Need—see Human Resources, State Department of

Chadbourn, Town of—motor vehicle tax 75, 188

Chapel Hill, Town of—teacher payday 112

Charities:
Bingo amendments ..... 896, 923(217)
Charitable Solicitations Act exemptions 320
Fair Housing Act exemptions 522
Historic properties:
Sales—local government 456
Tax exclusion 693
Public hospital law recodification 775
Wage and hour law exemptions 708

Charlotte, City of:
Central Piedmont Community College property lease 230
Contracts—certain community programs 119

Chapter

Charlotte, City of:—continued
Eminent domain alternative procedure 437
Firemen's pensions:
Credit purchase 767
System tax shelter 506
Land sales—charter amendment 92
Littering fine 362
Motor vehicle tax 75, 188
Ordinance violation penalties 71
Special use permit procedure 488

Chatham County—sharecropper contract default crime repeal 623

Checks—see Negotiable Instruments

Cherokee County:
Ambulance service fund 42
Voter assistance 310

Child Abuse and Neglect, Advisory Council on—creation 894

Children—see Minors

Children with Special Needs, Commission on—membership 863

China Grove, Town of—alderman, mayor vacancies 433

Chiropractic Examiners, State Board of—appointments authority 717

Chowan County:
Edenton, Town of—see that heading
Impounded animal sales 166
Wildlife preserve—Cape Colony 167
Wildlife protection—Arrowhead Beach 110

Cities—see Municipal Corporations

Civil Procedure (see also Courts):
Administrative penalties, de novo review of 919
Annexed area service extension—jurisdiction 636
Attorney, powers of—short form 626
Attorneys for hospitalized indigents—selection and pay 275
Child custody orders, recognition of foreign 563
Child placement review after rights termination 607
Child support enforcement:
On appeal 530
Procedure 677, 907
Confidentiality privilege override 410
Contract Appeals, Board of State ..... 761(187)
Courier service—chain of possession sufficiency 375
Court fees 713

Chapter

Civil Procedure (see also Courts):—continued
Crime Victims Compensation Commission procedure 832
Discovery:
Depositions, methods for taking 801
Filing and service requirements 201
Divorce grounds limitation 613
Dram shop liability 435
Eviction procedures 672
Evidence code 701
Fair Housing Act procedures 522
Guardians ad litem:
Parental rights termination petition 870
Payment 726
Statewide program ..... 761(159)-(160)
Inspection warrants 739
Involuntary commitment procedures 638, 864
Medical charges, competency to testify about 776
Motor vehicles:
Dealer franchises and trade practices 713
Post-towing procedures 420
Public health law rewrite 891
Public hospital law rewrite 775
Securities Act violations 817
Service of Process:
Child support motions notice time period 587
Eviction procedures 672
Legal advertisement validation statute 582
Newspaper publication 679
Notice of sale, proof of 799
Order service to guardian—parental rights termination 581
Publication sufficiency 231
Summons in parental rights termination cases 581
Tax foreclosure notice requirement 855
Time share arrangements, businesses involved in 814
Social worker confidentiality privilege 495
Spousal testimony 170
Subpoenas:
Documentary evidence 722
Fair housing cases 522
Medical records 665
Subrogation in workers' compensation 645
Unfair trade practices causes of action 417
Utilities Commission appeals:
Amendment implementation 526

Chapter

Civil Procedure (see also Courts):—continued
Utilities Commission appeals:—continued
Requirements 572
Water and sewer authority ordinances 820

Clay County:
Ambulance service fraud 42
Land sale 353

Cleveland County:
Shelby, City of—see that heading
Sheriff's term 45
Traffic control officer exemption 483

Clinton, Town of—school capital contracts 209

Coastal Area Management Act (see also Coastal Resources Commission):
Estuarine waters definition 518
Interim environmental concern areas—repeal 518
Judicial review reference 518
Major development definition 518
Permits:
Conditionality 518
Denial criteria 518
Dredge and fill 442
Emergency 173
Fees for development 307
General permits, conditions for 442
Issuance time limits 172
Local government minor development projects 399
Suspension pending appeal 400
Rules issuance—standards 171
Violations, civil penalties for 485

Coastal Resources Advisory Council—membership 249

Coastal Resources Commission (see also Coastal Area Management Act):
Beach access:
Land acquisition 334
Program requirements 757
Membership, affected city nominations for 486

Code Officials Qualifications Board, N.C.—certain certificates effective date 90

Colleges and Universities:
Community Colleges:
Adult basic education programs ..... 761(99)

Chapter

Colleges and Universities:—continued
Community Colleges:—continued
Aging, Governor's Advisory Council on—designees by Board 40
Board meetings—technical amendments 479
Board, nomination procedure to 311
Capital improvements approval 717
Central Piedmont property lease 230
Coastal Carolina Community College funds ..... 923(158)
Computer Commission membership—Department President 267
Condemnation powers—trustees 378
Craven Community College public radio grants ..... 923(151)
Extension units 717
Funds allocation revision ..... 761(97)
High schools, cooperative programs with 596
High technology training ..... 761(103)
Isothermal Community College public radio grants ..... 923(151)
Liability insurance purchase ..... 761(105)
Mitchell Community College funds ..... 923(148)
Nash Technical Institute funds ..... 923(154)
New colleges and institutes, establishment of 717
New Job and Skills Program funds ..... 761(100)
Nursing education funds formula ..... 761(106)
Public Education Policy Council membership 860
Recreation extension courses ..... 761(96)
"Regional institution" definition ..... 761(104)
Salaries ..... 717, 761(20), 761(216)
Sampson Technical Institute funds ..... 923(156)
Teacher allocation formula ..... 761(95)
Towing and post-towing procedures 420
Tuition increase and funds use ..... 761(98)-(99)
Fair Housing Act exemption—single-sex dormitories 522
Need-based student loans ..... 761(176)-(180)
North Carolina, University of:
Aging, Governor's Advisory Council on—designees 40
Agricultural program funds ..... 761(115)
Capital improvements appropriations 851
East Carolina Medical School ..... 761(116)
Funds:
Allocation procedure ..... 761(113)
Reallocation authority 717
Management Council, Governor's—participation 540
Medical schools, assistance to ..... 761(107)
Memorial Hospital special fund code 717
Private colleges aid procedure ..... 761(108)-(110)

Chapter

Colleges and Universities:—continued
North Carolina, University of:—continued
Private colleges assistance review repeal 163
Property sales or acquisition expenses 717
Public Education Policy Council membership 860
Public health nursing restructure ban ..... 923(217)
Revenue bonds approval 577
Revolving fund repayment and abolition 717
Salaries ..... 761(202)
Set-off debt collection hearing procedures 419
Technical amendment 768
Tobacco research funds ..... 923(150)
Towing and post-towing procedures 420
Tuition:
Increase authority ..... 761(114)
Nonresidents ..... 761(112)
Utilities sale, interest proceeds from ..... 761(111)
Private colleges:
Aid from State, procedure for ..... 761(108)-(110)
Grant cap, calculation of 717
State assistance—Board of Governors review repeal 163
Session Laws and Journals to all senior colleges 842
Towing and post-towing procedures 420

Columbia, Town of—motor vehicle tax 106, 188

Columbus County:
Chadbourn, Town of—see that heading
Education Board elections 234
Junk car regulation 841
Municipal junk car regulation 841
Whiteville, Town of—see that heading

Commerce, State Department of:
Access guide for disabled, publication of ..... 761(128)
Coastal Resources Advisory Council designee 249
Corporate credit union—creation and powers 470
Credit union administrator discretion 568
Energy Division data-collecting authority 575
Management Council, Governor's—membership 540
Motor carrier safety program transfer ..... 761(137)
Mutual Deposit Guaranty Associations, regulation of 719
Petroleum overcharge distribution ..... 761(130)
Revenue from personalized plates, transfer of 848
Savings and loan institution taxes 26

Chapter

Commerce, State Department of:—continued
Technological Development Authority, N.C. 899
Tomorrow program funds ..... 761(131)
Tourism grant limitation ..... 761(129)

Commissions, Committees, Councils, and Boards—see particular heading; Studies; and Resolution Index
Aeronautics Council
Aging, Governor's Advisory Council on
Agricultural Facilities Finance Agency, N.C.
Alarm Systems Licensing Board
Art in State Buildings, Committee on
Art Society, N.C.
Auctioneers Commission, N.C.
Bar, N.C. State
Barber Examiners, State Board of
Boiler and Pressure Vessel Rules, Board of
Burial Association Commission, N.C. Mutual
Capital Building Authority, N.C.
Child abuse and Neglect, Advisory Council on
Chiropractic Examiners, State Board of
Coastal Resources Advisory Council
Coastal Resources Commission
Code Officials Qualifications Board, N.C.
Computer Commission
Constitutional Amendments Publication Commission
Contract Appeals, Board of State
Cosmetic Art Examiners, State Board of
Courts Commission, N.C.
Crime Victims Compensation Commission
Criminal Justice Education and Training Standards Commission
Crop Seed Improvement, Board of
Earth Resources Council
Economic Development Board
Energy Development Authority
Engineers and Land Surveyors, State Board of Registration for
Environmental Management Commission
Executive Mansion Fine Arts Committee
Fire Commission, State
Foresters, State Board of Registration for
Housing Commission, N.C.
Human Relations Council, N.C.
Human Resources, Board of
Innovation Research Fund, N.C.
Judicial Council

Chapter

Commissions, Committees, Councils, and Boards—continued
Landscape Contractors Registration Board
Liability Insurance Commission, Public Officers and Employees
Management Council, Governor's
Manufactured Housing Board, N.C.
Medical Examiners, Board of
Mental Health Study Commission
Milk Commission
Mortuary Science, Board of
Need-based Medical Student Loans, N.C. Board of
Nursing Home Administrators, State Board of Examiners of
Occupational Safety and Health, State Advisory Council on
Osteopathic Examination and Registration, State Board of
Pharmacy, Board of
Plumbing and Heating Contractors, State Board of Examiners for
Podiatry Examiners, Board of
Private Protective Services Board
Property Tax Commission
Psychology, Board of Examiners in
Public Education Policy Council
Public Employee Deferred Compensation Plan, Board of
Radiation Protection Commission
Real Estate Commission
Real Estate Licensing Board
Registered Practicing Counselors, Board of
Roanoke Voyages Corridor Commission
Sheriff's Education, and Training Standards Commission, N.C.
Social Services Commission
Social Workers, N.C. Certification Board for
Southeast Interstate Low-level Radioactive Waste Management Compact
Southern States Energy Board
Standardization Commission
Stream Sanitation Commission
Symphony Society, N.C.
Tar River Port Commission
Technological Development Authority, N.C.
Utilities Commission, N.C.
Waste Management Board, Governor's
Wastewater Treatment Plant Operators Certification Commission

Community Colleges—see Colleges and Universities

Computer Commission—see Administration, State Department of

Chapter

Concord, City of:
Annexation—Kannapolis part 227
Motor vehicle tax 75, 188

Condemnation:
Community College trustee power 378
County water and sewer districts powers 735
Highway judgment interest rates 812
Joint municipal assistance agency power 609
Public hospital authority 775
Technical amendment 768

Condominium Units—see Real Property

Conservation—see Environment

Constitution of North Carolina:
Amendments proposed:
Agricultural facilities projects 765
Attorney General and District Attorneys, law license requirement for 298
Summaries, publication of 844
Utilities Commission appeals—amendment implementation 526

Constitutional Amendments Publication Commission—
creation 844

Construction:
Bond requirements—State contracts 422
Building code officials—certain certificate effective dates 90
Contract Appeals, State Board of ..... 761(187)
Lien waiver prohibitions 888
Mountain ridge protection law 676
Public hospitals 775
Small and minority contractors 692
Small job building permit exemption 614
Solid waste management facilities 795
Subcontractors, timely payment for 804

Consumer Protection:
Auctioneers' recovery fund 603
Business Opportunities Sales Act application 421
Car-buyer remedies 598
Condominium conversion, renter protection in 624
Credit sales—lease-purchase contracts 686
Funeral and burial contracts 657
Information, misuse of borrower's confidential 831
Interest rates 126
Loan rate sunset repeal 68

Chapter

Consumer Protection:—continued
Motor vehicles:
Buyer remedies 598
Dealer franchises 704
Manufacturer trade practices 704
Mutual burial associations, merger or purchase of 766
Petroleum overcharge distribution ..... 761(130)
Private Protective Services recovery fund 673
Unfair trade practices:
Causes of action 673
Penalties 721
Wine franchise amendments 85

Contract Appeals, Board of State—creation ..... 761(186)

Contracts and Purchases (see also Sales):
Artists' consignment rights 822
Consumer credit sales—lease-purchase contracts 686
Funeral and burial contracts 657
Joint municipal power agencies—single municipality authority 574
Lien waiver prohibitions 888
Motor vehicle dealers:
Franchises 704
Trade practices 704
Motor vehicle manufacturers liability 598
Public contracts:
Administration Department authority 717
Contract Appeals Board ..... 761(187)
Human Resources Department contractual authority 13
Mail—Revenue secretary contracts 7
Payment and performance bond requirements 818
Private benefit violations 409
Public hospital authority 775
Public officer conflict of interest 544
Purchase registry, publication of 839
Small and minority contractors 692
Subcontractors, timely payment for 804
Revenue bonds, state issuance of 554
Time share arrangements, regulation of 814

Controlled Substances—see Drugs

Corporations (see also Business Associations):
Abandoned property procedures 204
Bank directors—terms and regulation 24
Income Tax:
Deductions—reduced basis from federal tax credits 61

Chapter

Corporations (see also Business Associations):—continued
Income Tax:—continued
Depletion allowance allocation 713
Exempt organizations 28
Exemptions bases 31
Land donations for conservation, tax credit for 793
Quarterly payments 713
Wood conversion tax credit, carry forward of 929
Names 22
Public officer conflict of interest 544
Retailers—license taxes 38
Securities Act:
Coverage 817
Exemptions 509
Tax Adjustment Act 713
Validation of certain instruments 398

Correction, State Department of:
Administrative procedure rules 147
Board of Correction membership and terms 709
Contraband disposal authority 289
Inmate labor commissions repeal 709
Laundry service, provision of ..... 761(168)
Management Council, Governor's—membership 540
Manufacturing and service facilities, approval for .. 717
Mental illness:
Patient records to and from Mental Health division 491
Retarded prisoners, programs for 376
Prison enterprise reports 717
Prisoner transfer interstate, procedure before 874
Probation supervision, intensive program for 682
Robeson Prerelease Center funds ..... 923(222)
Technical amendments 768

Correctional Institutions:
Bertie-Martin regional jail, participation in 716
Capital punishment optional method 678
Contraband disposal authority 289
County prisoner transfers 670
Driving while impaired prisoners 435
Escapes:
Aiding and abetting 564
Dangerous weapon use 455
Second offense 465
Federal prisoner refusal option 219
Inmate labor commissions repeal 709

Chapter

Correctional Institutions:—continued
Jailer training and certification 745
Parole:
Early parole conditions and authority 557
Good conduct time credit clarification 560
Supervision fee 562
Pregnant defendant—imprisonment deferral 389
Prisoner transfer:
Interstate—procedure before 874
Intrastate among counties 165
Probation—see that heading: Criminal Procedure
Sheriff's prisoner confinement sites 631
Technical recodifications—jail confinement statutes 631, 768
Youthful offender escape clarification 465
Youthful offender law scope—nonviolent and 21 to 24 years of age 531

Cosmetic Art Examiners, State Board of:
Fees 523
Reciprocity for out-of-state practitioners 438

Council of State—see State, Council of

Councils—see Commissions, Committees, Councils, and Boards

Counties (see also Municipal Corporations):
Alcoholic Beverage Control:
Elections 113
Permits 113
Tax proceeds distribution 650
Animals, disposition of 834
Annexation procedures revision 636
Auctioneers, taxes on 751
Billboard removal compensation extension 318
City planning agency, extraterritorial area representation on 584
Commissioner ex officio service 651
Construction permits—small job requirement 614
Development regulation authority—estaurine and other waters 441
Elections, candidate filing restrictions for 330
EMS services in fire protection districts 642
Federal grant participation ratios ..... 761(72)-(73)
Fire marshall sirens and lights 32
Hazardous waste landfill reporting requirements 546
Historic properties sales authority 456
Hospitals:
Branches in other counties 578
Sales tax refunds 594
Human Resources Department contractual authority 13

Chapter

Counties (see also Municipal Corporations):—continued
Hunting deer with lights—options 137
Industrial economic development, tax authority for 511
Inspection department procedures 377
Involuntary commitment transportation 138
Jailer training and certification 745
Junk cars—post-towing procedure and disposal 420
Law enforcement officer retirement—tax-sheltering restructure 468
License tax on retailers 38
Mental health authority real property purchases— consent 402
Mental patient escapes, expenses of 548
Mineral claims extinction 502
Mountain ridge protection law 676
Oath administration by county clerks 648
OSHA exemptions for small fire departments 164
Personnel policies option 674
Planning department compensation 377
Prisoner transfer contractual authority 165
Property taxes—interest on unpaid amounts 64
Public health law rewrite 891
Public hospital law recodification 775
Public investments into savings and loan 158
Purchase and contract through Administration Department 717
Registered public obligation issuance procedures 322
Resolutions authority—water projects 717
Sales tax, one-half cent local option 908
School property sale, first option on 731
Sheriff's duties and bonding 670
Solid waste management facilities, construction of 795
Special assessment tax discounts 381
Tax assessor certification 813
Tax lien sales by local government 808
Telephone network participation 406
Uranium mining notification 279
Video game tax 713
Wastewater treatment contracts 489
Water and drainage projects—authorization and assessments 324
Water and sewer system condemnation powers 735
Water resources projects cost-sharing eligibility 450

Courts (see also Civil Procedure; and Criminal Procedure):
Annexed area service extension cases 636
Appeals—see Criminal Procedure; and Civil Procedure
Child custody orders, recognition of foreign 563
Child placement review after rights termination 607

Chapter

Courts (see also Civil Procedure; and Criminal Procedure):—continued
Child support through high school 54
Clerks of Court:
Adoption consent revocation procedure 688
Adoption jurisdiction—parental rights termination 89
Allocation, formula for 881
Appearance waiver—hunting, fishing, boating offenses 586
Appointed attorney fees 135
Attorney, powers of—short form filing requirement 626
Child placement review after rights termination 607
Child support enforcement procedure 677
Court fees 713
Documentary evidence subpoenas 722
Escaped mental patients, notification as to 548
Foreclosure notice date 335
Eviction procedures 672
Involuntary commitment procedures:
Defendants 380
Outpatients 638, 864
Longevity pay ..... 761(247), 761(249)
Marine Fisheries Commission rules 221
Notice of sale, proof of 799
Parole supervision fee collection 562
Probation revocation notification 536
Public health law rewrite 791
Renunciation requirements for limited interests 66
Retirement tax-sheltering 468
Salaries ..... 761(200)
Sheriff's duties 670
Single portal procedures—mental health cases 383
Small estates:
Administration amounts 65
Affadavit time limit 711
Summary ejectment service of process 332
Validation of certain instruments 398
Contract Appeals, Board of State ..... 761(187)
Convictions suppression procedure—right to counsel cases 513
Court costs restitution—probation condition 561
Court fees 713
Discovery for criminal defendants 759
Equitable distribution:
Injunctions 309
Pension rights 758, 811
Evidence code 701

Chapter

Courts (see also Civil Procedure; and Criminal Procedure):—continued
Fair Housing Act jurisdiction and powers 522
Guardians ad litem:
Compensation 726
Statewide program ..... 761(159)-(160)
Incapacity to proceed—dismissal with leave 460
Involuntary commitment procedures—defendants 380
Judges and Justices:
Appearance waiver—hunting, fishing, boating offenses 586
Appellate defender caseload allocation ..... 761(163)
Child support—enforcement on appeal 530
Confidentiality privileges, power to override 410
Consumer protection violations, penalties for 721
Driving while impaired offenses—procedures 435
Emergency service qualifications 784
Evidence code 701
Fair sentencing procedures—consolidated crimes 453
Involuntary commitment procedures:
Defendants 380
Outpatients 638, 864
Jury instruction conference requirement 635
Juvenile custody order criteria and authority 590
Legislative confidentiality, power to override 900
License revocation authority 435
Limited driving privileges authority 435, 798
Longevity pay ..... 761(242)-(245)
Parental participation in juvenile cases, compulsory 837
Prisoner transfer among counties 165
Retirement refund waiting period 467
Retirement tax-sheltering 468
Salaries ..... 761(198)
State Bar inactive status 589
Student intern assignment 710
Juries, lists of licensed drivers for 197, 754, 768
Legislative confidentiality 900
Magistrates:
Appearance waiver—hunting, fishing, boating offenses 586
Courts Commission membership 181
License revocation hearings—driving while impaired offenses 435
License seizure requirement—driving while impaired offenses 435
Number for certain counties 881
Salaries ..... 761(199)
Towing and post-towing procedures 420
Parent locator service 15

Chapter

Courts (see also Civil Procedure; and Criminal Procedure):—continued
Parental rights termination—reference repeal 512
Probation revocation—failure to pay child support 567
Registered practicing counselor privilege 755
Sanitary districts—power to litigate 55
Social worker confidentiality privilege 495
Speedy trial time limits 571
Spousal testimony 170
Subrogation in workers' compensation 645
Superior court jurisdiction—transferred juvenile felony cases 532
Utilities Commission appeals—amendment implementation 526
Vehicle seizure and disposition—altered or defaced numbers 592
Venue—felony cases in multi-county cities 727
Wake County Superior Court:
Contested elections judgement authority 329
Energy data collection enforcement 575
Midwifery regulation 897
Public hospital law rewrite 775
Securities Act violations 817

Courts, Administrative Office of the:
Appropriations 881
Clerks, allocation of 881
Outpatient involuntary commitment funds 864
Pretrial documents—filings and service requirements 201
Salaries ..... 881, 761(198)
Survivor's benefits study ..... 761(235)

Courts Commission, N.C.—membership and terms 181, 774

Craven County:
Bridgeton, Town of—see that heading
Education Board redistricting and membership 236
Hunting from roads and highways 305
New Bern, City of—see that heading

Credit Unions (see also Banks and Banking; and Savings and Loan Institutions):
Account access—small estates 198
Corporate credit union—creation and powers 470
Currency transactions reports 815
Fair Housing Act—unlawful discrimination 522
Forgery definition clarification 397
Interest rate and dividends 568
Loan limits 568
Retirement opt-out—state credit union employees 782

Chapter

Crime Control and Public Safety, State Department of:
Aging, Governor's Advisory Council on—designee 40
Butner, special police officers for ..... 761(165)
Community Penalties Program 909
Community service in DWI cases, program for ..... 761(154)
Community Services Punishment program funds 881
Fictitious license requests 629
"Get Smart" funds ..... 923(220)
License plate study ..... 761(164)
Lincoln Highway Patrol Station funds ..... 923(236)
Management Council, Governor's—membership 540
National Guard pensions ..... 761(250)-(251)
Rape victim assistance program 715
Signal 25 communicators funds 879
Victim compensation program authority ..... 761(156)

Crimes:
Aggravating factor—pecuniary gain clarification 70
Alcohol:
Consumption while driving 435
Driving while impaired (DWI) 435
Fraudulent purchase 435
Underage purchase, defense 740
Animals:
Exotic species release or hunting 615
Fisheries violations 570
Larceny 35
Law enforcement animals, injury to 646
Arrest, resisting unlawful 762
Assault—age limit 175, 720
Banking law offenses 214
Bingo violations 896
Bribery of legislators 780
Children:
Abuse 916
Day care violations 297
Residential group child care violations 637
Sexual performance 916
Transportation 563
Concealed weapons clarification 86
Conflict of interest violation—corporate ownership 544
Conspiracy to commit felony—punishment 451
Crime victim compensation fraud 832
Disturbance statutes repeal 39
Driving while impaired 435

Chapter

Crimes:—continued
Drugs:
Courier service exemption 375
Embezzlement 773
Fraud, obtaining by 773
Methaqualone classification 695
Minor, sale to 414
Escapes:
Aiding and abetting 564
Allowing prisoner to escape 694
Dangerous weapon use 455
Local jail escape 455
Second offense 465
Fair Housing Act—discrimination offenses 522
Fisheries violations 570
Forgery definition clarification 397
Hood and mask offense—age limit 175, 720
Involuntary servitude 746
Kidnapping 746
Littering while transporting farm products 890
Midwifery violations 897
Motor vehicles:
Accident, failure to stop for an 912
Driving while impaired 435
Licenses—driving while revoked 51
Manufacturer's number defacement or alteration 592
Radar technician qualifications 34
Robbery—vehicle forfeiture 74
School buses, passing stopped 779
Noise violations by boats 787
Obscenity:
Age limit 175, 720
Child sexual performance 916
Perjury—false affirmation as to vehicle insurance 610
Public contracts violations—private benefit use 409
Rape:
Age limits 175, 720
Victim assistance program 715
Scale technician violations 111
Sexual offenses:
Age limits 175, 720
Child performance 916
Sheriff dereliction of duty 670
Shopping cart theft 705

Chapter

Crimes:—continued
Slavery 746
Social worker certification violations 495
Technical amendments 294, 768
Time share law violations 814
Utilities reconnection crime 508
Vagrants and tramps 17
Water contamination 507
Weapons:
Disposition 517
Mass destruction 413
Parades 633
Worthless checks, restitution for 741

Criminal Justice Education and Training Standards Commission:
Female membership requirement 618
Jailer training and certification 745
Membership and appointment 807

Criminal Justice Information System and Computerized Records:
Study Commission—creation 825

Crime Victims Compensation Commission—creation 832

Criminal Procedure:
Appearance waiver—hunting, fishing, boating offenses 586
Arrest, resisting unlawful 762
Chemical tests for alcohol—use and procedures 435
Confidentiality privileges, jurisdiction to override 410
Convictions suppression procedure—right to counsel cases 513
Courier service—chain of possession sufficiency 375
Discovery for defendants 759
Drivers' license suspensions:
Chemical test refusal, appeal from 87
Driving while impaired 435
Procedures 538
Evidence Code 701
Incapacity to proceed—dismissal with leave 460
Involuntary commitment procedures—defendants 380
Juvenile Code:
Child abuse reporting requirement 199
Confinement time credit 133
Custody order authority and criteria 590
Nondivertible offenses 251
Parent participation in juvenile treatment, compulsory 837

Chapter

Criminal Procedure:—continued
Juvenile Code:—continued
Secure custody in holdover facility—expiration date 639
Superior court jurisdiction—transferred felony cases 532
Technical amendments 276
Treatment plan formulation time limit 133
Jury instruction conference requirement 635
National guard court martials 315, 316
Probation:
Child support enforcement procedures 567, 712
Conditions, uniformity in 561
Restitution provisions 561
Revocation notice requirements 536
Supervision program 682
Rape and sexual offense indictments—technical amendments 720
Release on bail, delayed—driving while impaired offense 435
Sentences and Sentencing:
Capital punishment optional method 678
Convictions suppression—certain cases 513
Fair sentencing procedures—consolidated crimes 453
Honorable discharge as mitigating factor 606
Pecuniary gain as aggravating factor 70
Pregnant defendants—imprisonment deferral 389
Probation conditions, uniformity in 561
Speedy trial time limits 571
Social worker confidentiality privilege 495
Technical amendments 294
Uniform criminal calendaring ..... 761(153)
Venue—felony cases in multi-county cities 727
Youthful offender law scope—nonviolent and 21 to 24 years of age 531

Crop Seed Improvement, Board of—certification authority 800

Cultural Resources, State Department of:
Aging, Governor's Advisory Council on—designee 40
Albemarle Museum funds ..... 923(136)
Andrew Jackson Memorial Funds ..... 923(121)
Art in State buildings, funds for 862
Brunswick Town Historic Site funds ..... 923(66)
Charlotte Hawkins Brown Site Funds ..... 923(142)
Eastern Office funds ..... 923(144)
Fayetteville Branch Museum funds ..... 923(113)
Films for schools 819
Fort Fisher ferry guides ..... 923(94)
Haywood Hall funds ..... 923(126)
Historic Halifax funds ..... 923(67)

Chapter

Cultural Resources, State Department of:—continued
Liberty Cart funds ..... 923(110)
Management Council, Governor's—membership 540
Old Richmond Courthouse funds ..... 923(125)
Regional Arts Funds ..... 923(69)
Spencer Shop funds ..... 923(133)
Symphony endowment ..... 761(118)
Thomas Wolfe Visitor Center funds ..... 923(139)
Town Creek Indian Mound funds ..... 923(135)

Cumberland County:
Education board:
Chairman and vice-chairman election 99
Compensation 263
Fayetteville, City of—see that heading
Motor vehicle tax—all municipalities 75, 188
Sunday-closing referendum 368

Currituck County—Game Commission procedure 764

D

Dare County:
Airport ordinance authority 892
Annexation powers 636
Impounded animal sales 166
Junk car regulation 75, 841
Kitty Hawk fire district 206
Library book crime 349
Municipal junk car regulation 841
Roanoke Voyages Corridor Commission jurisdiction 242

Davidson County:
Force accounts 295
Lexington, City of—see that heading
Motor vehicle tax—all municipalities 75, 188
Special deputy program and benefits 344
Thomasville, City of—see that heading

Davie County:
Ambulance service fraud 42
Annexation powers 636
Land sales 203

Day Care:
Church licensing exemption 283
Definition 46, 297
Inspections 261
Penalties 297

Chapter

Day Care:—continued
Staff:
Age limit 62
Mental qualifications 277
Standards 46, 612

Deaf Persons—see Handicapped Persons

Death (see also Decedents' Estates):
Death benefits in workers; compensation 772
Death certificates, sales tax exemption for 887
Funeral burial trust fund amendments 657
Life insurance proof of loss 749
Natural Death Act amendments 313, 768
Public health law rewrite 791

Debtors and Creditors (see also Mortgages and Deeds of Trust):
Crime victim awards, exemption from process for 832
Foreclosure notice date 335
Liens:
Motor vehicles:
Notice requirement 44
Post-towing lien enforcement 420
State-issued revenue bonds 554
Tax sales 808
Waiver, conditions in prohibition of 888
Revenue bond limited liability 554
Set off debt collection hearing procedures 419
Vehicle forfeiture under driving while impaired offense 435

Decedents' Estates (see also Wills):
Bank account access—small estates 198
Intestate Succession:
Administration costs 65
Affadavit time limit 711
Renunciation requirements of limited interests 66
Retirement plans, tax deduction for contribution to qualified 706
Validation of certain instruments 398

Deeds and Conveyances (see also Mortgages and Deeds of Trust):
Computerized indexes 699
Validation of certain instruments 398

Deeds of Trust—see Mortgages and Deeds of Trust

Dentists—public health law rewrite 791

Departments, State (see also particular agency):
Administrative officers, salary-setting authority for various 717
Administrative rules authority 76

Chapter

Departments, State (see also particular agency):—continued
Auditor law revision 913
Expenditures authorization ..... 761(10)
Fair Housing Act jurisdiction 522
Food products from State farms 717
Incentive Pay for State Employees, Committee for 871
Insurance:
Fidelity bonds ..... 761(11)
Liability insurance premiums, transfers for 717
Payroll deduction deposits ..... 761(27)
Pilot program budgets ..... 761(12)
Public contracts violations—private benefit 409
Publications, cost statements and procedure concerning 866
Registered public obligation, issuance procedures 322
Salary-related contribution requirements ..... 761(16)
Self-supporting agencies 717
Set-off debt collection hearings procedure 419
Small and minority contractors, policy for use of 692

Disability Benefits—see Workers' Compensation

Disability Review Commission—creation 880

Disabled Persons—see Handicapped Persons; and Workers' Compensation

Discrimination:
Coastal Resources Commission appointments, affirmative action in 486
Criminal Justice Education and Training Commission female member 618
Deferral agency designation—EEOC complaints 576
Domicile of married woman—income tax purposes 195
Fair Housing Act 522
Health insurance conversion policies—divorce or separation 668
Small and minority contractors, policy for use of 692

Diseases—see Public Health

District Attorneys:
Child abuse—duty to investigate 199
Calendar uniformity in criminal cases ..... 761(153)
Discovery for criminal defendants 759
District Attorneys, Conference of—creation and duties ..... 761(152)
Driving while impaired cases—duties 435
Incapacity to proceed—dismissal with leave 460
Longevity pay ..... 761(246)
Prisoner transfer, interstate—notice of 874
Probation revocation—failure to support child 567
Retirement tax-sheltering restructure 468

Chapter

District Attorneys:—continued
Salaries ..... 761(198)

Divorce:
Confidentiality privileges—professionals 410
Equitable distribution:
Injunctions 309
Marital property definition 640
Pension rights as marital property 758, 811
Property valuation 671
Grounds 613
Health insurance conversion policies 658

Dobbins Heights, Town of—incorporation 658

Doctors—see Physicians and Surgeons

Domestic Relations—see Divorce; Marriage; and Parent and Child

Domiciliary Care Homes—see Health Care Facilities

Drugs:
Driving while impaired offense 435
Embezzlement crime 773
Forfeiture of drug money and tools 528
Fraud, obtaining by 773
Methaqualone classification 695
Sales to minors 414

Duplin County:
Ambulance service garnishment and attachment 424
Kenansville, Town of—see that heading
Magnolia, Town of—see that heading
Rose Hill, Town of—see that heading
Wallace, Town of—see that heading

Durham, City of:
Charter amendment 458
Contracts for public purposes 370
Economic development loan authority 255
Election ward boundaries 369
Fair housing charter amendment 373
Firemen's supplemental retirement benefits eligibility 463
Minority enterprise participation compliance 474
Motor vehicle tax exception 188

Durham County:
Ambulance service debt collection 186
Durham, City of—see that heading

Chapter

Durham County:—continued
Education Board mileage allowance 124

E

Earth Resources Council—abolition 667

East Bend, Town of—boundaries 157

Economic Development Board—salary of chairman 717

Eden, City of:
Retirement system abolition 723
School merger 783

Edenton, Town of—motor vehicle tax 106, 188

Edgecombe County:
Bass-netting from the Tar River 555
Battleboro, Town of—see that heading
Building permit requirement—small jobs 614
Development corporation leases and sales 240
Dog and cat sales 683
Drift-hunting 747
Education Board membership and elections 262
Princeville, Town of—see that heading
Rocky Mount, City of—see that heading
Special deputy program and benefits 344
Tarboro, City of—see that heading

Education, Boards of (see also Schools):
Bus purchases ..... 761(80)
Children with special needs, obligations to 247
Community colleges, cooperative programs with 596
Consolidation and discontinuance of schools 308, 752
Modular classroom tie-down requirement ..... 761(93)
Organizational requirements and procedures 408
Political parties, use of school buildings by 519
Probationary period—nontenured teachers 394
Property sales—county first option 731
Pupil transportation authority ..... 761(79)
Superintendent appointments 478
Teacher employment and dismissal procedure 770
Textbook fees to State Board 549
Towing powers 420
Transportation responsibilities 630
Vacation leave policies 872
Vocational education, assessment of ..... 761(90)

Chapter

Education, State Board of (see also Schools):
Basic and Vocational Skills program—establishment and report 340, 907
Child abuse prevention programs authority 894
Controller's salary 717
Exceptional children funding and responsibilities ..... 761(81)-(85)
Expanded day authority ..... 761(92)
Local superintendent appointments 478
Public Education Policy Council, membership on 860
Pupil transportation policy ..... 761(79)
School bus charges 717
School finance evaluation ..... 761(86)
Teacher probationary period—reports from local boards 394
Test selection authority 627
Textbook fees from local boards 549
Transportation authority and duties 630
Vacation and sick leave policies 872
Vocational education:
Assessment ..... 761(90)
Production work advisory committee 750
Voter registrar appointment authority 707

Education, State Department of Public—see Public Instruction, State Department of

Elderly Persons—see Aged

Elections:
Address change—alternate procedure 392
Annexation procedures revision 636
Ballots, procedures for absentee 304, 324
Candidates:
Election fund allocation 700
Filing restrictions—two offices 330
Constitutional amendments:
Agricultural facilities projects 765
Attorney General and district attorneys must be lawyers 298
Election fund:
Allocation 139, 700
Checkoff ceiling 481
Location on return 480
Elections officials' appointment dates 617
Hospital district creation 775
Nonpartisan municipal election procedures 644
Political parties:
Delegate allocation 216
New party formation procedures 576

Chapter

Elections:—continued
Political parties:—continued
School building use 519
Voter records access 218
Primaries:
Delegate allocation 216
Nominee determination 729
Vote counting procedure 411
Public health law rewrite 791
Referenda:
Mountain ridge protection 676
Sales tax, local government half-cent 908
Yam assessments 246
Registration:
Cancellation procedure 411
Judges of elections powers 553
Librarians 588
Motor vehicle license examiners 854
New party petitions 576
Sanitary districts, incorporation with 537
School employees 707
Rural fire department elections 388
Technical amendments 324, 331
Vacancies nonelective municipal offices 827
Voting enclosure access 411
Voting place requisition 411

Elections, Boards of:
Absentee ballot procedures 304
Address change—alternate procedure 392
Appointment dates 617
Contested elections, certification of 329
County supervisor termination procedure 697
Judges of election registration powers 553
Librarians, voter registration by 588
Motor vehicle license examiners as registrars 644
New party petitions—registration effect 576
Registration cancellation procedure 411
Technical amendments 331
Vote counting procedures—primaries 411
Voter records—party access 218
Voting enclosure access—precinct registrar 411
Voting place requisition 411

Elections, State Board of:
Absentee ballot regulations 304

Chapter

Elections, State Board of:—continued
Attorney, authority to employ 324
Contested election procedures 329
County supervisor termination procedure 697
Motor vehicle license examiners as registrars 854
New elections authority 210
New party formation procedures 576
Nonpartisan municipal elections procedure 644
Presidential primary nominees, date for making 729
Technical amendments 331

Elizabeth City, City of:
Assessments validation 187
Motor vehicle tax 75, 188

Elizabethtown, Town of—motor vehicle tax 75, 188

Ellenboro, Town of—charter revision 425

Emerald Isle, Town of—beach access 539

Eminent Domain—see Condemnation

Employees, State:
Cost-savings, awards for 717
Deferred Compensation Plan structure 559
Health insurance:
Comprehensive Major Medical Plan technical amendments 922
Hospital and Medical benefits, composition of Committee on 452
Incentive Pay for State Employees, Committee for—creation 871
Leave use with workers' compensation 599
Medical benefits committee membership 452
Medical plan technical amendments 922
Mental health authority employees—records confidentiality 281
Merit pay freeze continuation ..... 761(217)
Olympics or Pan American participants, leave for 717
Personnel Act, determination of exemption from 717
Public Telecomunication Agency—Personnel Act exemption 666
Salaries—see that heading
Tenth step, consideration of ..... 761(224)

Employer and Employee—see Labor

Employment Security:
Child support, benefits assignment for 33
Eligibility 625
Local government pool account 717

Employment Security Commission:
Aging, Governor's Advisory Council on—designee 40
Appeals procedure 625

Chapter

Employment Security Commission:—continued
Benefits eligibility 625
Benefits recovery procedure 625
Child support—benefits assignment 33
Payments method 585
Salary of chairman ..... 717, 761(216)
Trust fund revisions 585
Unemployment definition—National Guard or reserves members 675
"Work" definition 585

Energy:
"Dam" Definition—dam safety law 306
Data collection—Energy Division 575
Energy Development Authority 652
Gasohol special tax exemption 591
Joint municipal assistance agencies—structure and powers 609
Joint municipal power agencies—single municipality authority 574
Low income assistance block grant ..... 761(56)
Mineral claims extinction 502
Nuclear facility emergency planning fee 622
Oil re-refining facility policy ..... 761(172)
Petroleum overcharge funds use ..... 761(130)
Southern States Energy Compact and Board 282
Uranium mining regulation 279

Energy Development Authority—creation and powers 652

Enfield, Town of—motor vehicle tax 75, 188

Engineers and Land Surveyors—registration and reexamination fees 183

Environment (see also Sanitation; and Waste Management):
Boards—certain references repealed 222
Coastal Area Management Act—see that heading
Energy Development Authority—pollution compliance 652
Estuarine and other waters, county regulation authority in 441
Forest law defined 327
Hazardous wastes landfills rules criteria 546
Land donations for conservation tax credit 793
Muffler-exhaust system requirement 132
PCB landfill special provisions 605
Southeast Interstate Low-level Radioactive Waste Management Compact 714
Special conservation officers—appointments and powers 484
Uranium mining regulation 279

Chapter

Environmental Management Commission:
Administrative procedure and judicial review 296
Clean Water Bonds—rules reporting requirement 577
"Dam" definition—dam safety law 306
Revenue bond approval power 554
Sand dunes authority—reference repeal 222

Escheats—procedures 204

Evidence:
Alcohol sales to underage persons—negligence 435
Chemical tests—driving while impaired 435
Confidentiality privileges, jurisdictions to override 410
Courier service—chain of possession sufficiency 375
Depositions, methods for taking 801
Discovery for criminal defendants 759
Documentary evidence subpoenas 722
Domicile presumption—wife 195
Evidence Code 701
Legislative confidentiality 900
Medical charges, competency to testify about 776
Medical records subpoenas 663
Notice of sale, proof of 799
Parking cases, prima facie evidence rule in 753
Physician confidentiality—public records exemption 471
Radar technician qualifications 34
Registered practicing counselor privilege 495
Social worker confidentiality privilege 495
Spousal testimony 170

Executive Mansion Fine Arts Committee—meetings and technical reference change 632

F

Fairmont, Town of:
Motor vehicle tax 75, 188
School district boundaries 337

Farming—see Agriculture

Farmworker Council, N.C.—creation ..... 923(205)

Farmville, Town of—motor vehicle tax 75, 188

Fayetteville, City of:
Annexation powers 636
Civil Service Commission repeal 244
Land acquisition and disposal 235

Chapter

Fire Commission, State:
Fire Instructors' Society President as member 840
Standards for small fire departments 164

Fire Protection:
EMS services in fire protection districts 642
Fire service training programs study ..... 761(20)
Inspection warrants 739
Rural fire departments:
Annexed areas 636
Elections 388
Good Samaritan law 520
State buildings, local fire protection for ..... 761(21)

Firemen:
Death benefits ..... 761(236)-(237)
Fire marshall sirens and lights 32
Good Samaritan law—rural fire departments 520
OSHA exemption for small departments 164
Overtime for forest firefighters ..... 761(195)
Pensions eligibility:
Annexation effect 636
Insurance Department classifications 416
Rural fire department good samaritan law 520

Fish and Fishing:
Clam and oyster leases 621
License fees 140, 570
Pier licensing and fees 570
Polluted areas, expedited reopening of 620
Shellfish leases and fees 601

Foreclosures:
Foreclosure validation statutes 582, 738
Notice of sale, proof of 799
Tax foreclosure notice requirement 855

Foresters, State Board of Registration for—membership and terms 103

Forests:
Agriculture Department timber sales 717
Firefighters' overtime pay ..... 761(119)
Gasohol partial tax exemption 760
Law defined 327
Programs and studies ..... 761(120)-(122)
Ranger authority 327

Chapter

Forsyth County:
Annexation powers 636
Education Board surplus property sale 358
Emergency communication, interference with 361
Fireworks 21
Pistol permit fees 101
Property tax refunds and releases 182
Vehicle removal from private lots 459
Winston-Salem, City of—see that heading

Fountain, Town of—motor vehicle tax 75, 188

Four Oaks, Town of—annexation 447

Franklin County:
Franklinton, Town of—see that heading
Louisburg, Town of—see that heading
Salaries of officials 184

Franklinton, Town of—motor vehicle tax 75, 188

G

Game and Game Laws—see Fish and Fishing; and Hunting; and Wildlife; and particular counties and municipalities for local acts

Garner, Town of—motor vehicle tax 75, 188

Gaston County:
Boats to respond to sirens or lights 356
Gastonia, City of—see that heading
High Shoals, Town of—see that heading
Hospital leases 796
Land disposal procedural exemption 405
Life preserver requirement 200
Police Department structure 904
Tax receipts—contracts with banks 284
Vehicle towing regulation 687

Gastonia, City of:
Council voting procedures—zoning protest petitions 176
Pension fund revision 809

General Assembly:
Administrative rules:
Repeal 883
Transfer 927
Advisory Budget Commission—see Appropriations
Appointments:
Administrative Rules Review Commission, Governor's 927
Aging, Governors Advisory Council on 40

Chapter

General Assembly:—continued
Appointments:—continued
Agriculture Facilities Finance Agency 789
Alarm Systems Licensing Board 786
Banking Commission 328
Chiropractic Examiners Board 717
Community Colleges Board—nomination procedure 311
Computer Commission 267
Contract appeals, Board of State ..... 761(181)
Courts Commission 774
Crime Victims Compensation Commission 832
Criminal Code Revision Study Committee 921
Criminal Justice Information System and Computerized Records Study Commission 825
Deferred Compensation Plan Board 559
Disability Review Commission 880
Farmworker Council ..... 923(205)
Fire Service Training Program Study ..... 761(20)
Housing Commission 778
Human Relations Council 461
Incentive Pay for State Employees, Committee for 871
Manufactured Housing Board 717
Milk Commission 717
Public Education Policy Council 860
Senate President Pro Tempore 903
Southern States Energy Board 282
State Employees Medical Benefits Committee 452
Technological Development Authority, N.C. 899
Auditing exemption ..... 761(19), 923(217)
Bribery of legislators 780
Computer services from Administration Department 267
Confidentiality of communications 900
Food services 8
Health insurance benefits plan ..... 761(252)-(256)
Legislative Research Commission:
Appointments and terms 63
Auditing exemption ..... 761(19), 923(217)
Studies—see that heading
Tax deductions—members 155
Legislative Services Commission—extra expenses criteria ..... 761(26)
Retirement system ..... 761(238)-(240), 923(217)
Salaries:
Legislative employees ..... 761(196)-(197)
Legislators ..... 761(203)

Chapter

General Assembly:—continued
Senate President Pro Tempore appointments 903
Separation of powers 577, 717
Speaker of the House:
Appointments 903
Salary ..... 761(203)
Technical amendments 768
Temporary employee leave policy ..... 923(217)
Travel allowances ..... 761(22), 761(23), 761(25), 923(217)

General Fund, State—see Appropriations

Governor:
Advisory Budget Commission—bond approval role change 577
Appointments:
Administrative Rules Review Commission, Governor's Advisory Budget Commission 48
Aeronautics Council 325
Aging, Governor's Advisory Council on 40
Agricultural Facilities Finance Agency appointments 789
Alarm Systems Licensing Board 786
Auctioneers Commission public member 751
Banking Commission 328
Contract Appeals, Board of State ..... 761(187)
Correction, Board of 709
Courts Commission, N.C. 774
Crime Victims Compensation Commission 832
Criminal Justice System and Computerized Records Study Commission 825
Disability Review Commission 880
Energy Development Authority 652
Farmworker Council ..... 923(205)
Housing Commission, N.C. 778
Human Relations Council 461
Incentive Pay for State Employees, Committee for 871
Medicine, Institute of ..... 923(197)
Public Education Policy Council 860
Registered Practicing Counselors Board 755
Science and Mathematics, N.C. School of ..... 761(184)
Social Worker Certification Board 495
Southeast Interstate Low-level Radioactive Waste Management Compact 714
Southern States Energy Board 282
Technological Development Authority, N.C. 899
Waste Management Board 859
Auditing exemption ..... 761(10), 923(217)

Chapter

Governor:—continued
Capital improvements authorizations 757, 803
Coastal Resources Commission appointment procedure 486
Computer Commission chairmanship 267
Great Seal—Halifax resolves date addition 257
Management Council—creation and powers 540
Salaries 717
Separation of powers 717
Southern States Energy Board 282
Sunset dates on boards and commissions 733
Temporary rules filing procedure 857
Western Residence repair assurance 602

Graham County—land exchange with U.S. Forest Service 354

Granville County:
Motor vehicle tax—all municipalities 75, 188
Special deputy program and benefits 344

Greensboro, City of:
Airport:
Authority powers 444
Parking 431
Education Board terms and compensation 429
Firemen's supplemental fund investments and benefits 466

Greenville, City of:
Cemetery purchase fund repeal 232
Motor vehicle tax 75, 188
Tar River Port Commission repeal 233

Guilford County:
Greensboro, City of—see that heading
High Point, City of—see that heading
Jamestown, Town of—see that heading
Special deputy program and benefits 344

H

Halifax County:
Enfield, Town of—see that heading
Public Market authorization and funds 853
Roanoke Rapids, City of—see that heading
Scotland Neck, Town of—see that heading
Special deputy program and benefits 344
Weldon, Town of—see that heading

Handicapped Persons (see also Mental Health):
Access guide, publication of ..... 761(128)

Chapter

Handicapped Persons (see also Mental Health):—continued
Adult special assistance 14
Blind vendors, State employment status of 867
Deaf, School for—equipment funds ..... 923(201)
Developmentally disabled community programs ..... 761(70)
Disability Review Commission—creation 880
Disabled care project ..... 923(159)
Domiciliary homes—see Health Care Facilities
Justice Department specialist 850
Morganton Center for Hearing-Impaired, funds for ..... 923(161)
Parking space violation fine 326
Sheltered workshop vehicles, permanent plates for 593
Willie M. funds:
Obligations ..... 761(77)
Real estate purchases 25

Harnett County—center fire rifles, use of 791

Haywood County:
Canton, Town of—see that heading
Disabled adult abuse 901
Maggie Valley, Town of—see that heading
Occupancy tax authorization 908

Hazardous Wastes—see Waste Management

Health—see Mental Health; and Public Health

Health Care Facilities (see also Hospitals; and Public Hospitals):
Accounts, power of Human Resources Secretary to compromise 23
Certificates of Need:
Fees 713
Freeze—alcohol and drug treatment 415
Domiciliary homes:
Advisory Committee membership and duties 88
Licensing ..... 324, 761(35)
Patient aid ..... 761(32)-(33)
Peer review, use of medical records in 816
Rate increase ..... 761(31)
Requirements exemption—certain homes 611
State-county cost-sharing ..... 761(37)
Gift tax exclusions—medical care 685
Group home patients aid eligibility ..... 761(34)
Intermediate care facilities:
Certificates of need:
Authority to grant 858
Freeze 836
Involuntary commitment procedures—outpatients 638, 864

Chapter

Health Care Facilities (see also Hospitals; and Public Hospitals):—continued
Juvenile admissions procedures—mental illness 302, 889
Life care center, certificates of need for 920
Mental patients:
Escapees, procedure for return of 548
Records to Corrections Department 491
Midwifery regulation 897
Nursing homes:
Certificates of Need:
Extension of provisions ..... 761(74)
Issuance in small counties 835
Hospital homes regulation 143
Parental liability—child's long-term care 12
Planning regions aid ..... 761(30)
Public health law rewrite 891
Public hospital law recodification 775
Single portal procedures 383

Health Maintenance Organizations:
Certification requirements 386
Public hospital law rewrite 775

Health Services, Commission for:
Bed and breakfast at private homes, regulation of 884
Public health law rewrite 891
Revenue bond approval power 554

Henderson County:
Courthouse funds 336
Hendersonville, Town of—see that heading
Jail operation 771

Hendersonville, Town of:
Motor vehicle tax 75, 188
Zoning board procedures 161

Hertford County—industrial property sale 243

Hertford, Town of:
ABC store profits, distribution of 371
Motor vehicle tax 106, 188
Murfreesboro, Town of—see that heading

Hickory, City of—land sale 79

High Point, City of:
Airport:
Authority powers 444
Parking 431

Chapter

High Point, City of:—continued
Career service law amendments 180

High Shoals, Town of—annexation powers 636

Highway Fund, State:
Adjustments ..... 761(7)
Capital improvements 757
Cash flow ..... 761(9)
Motor Vehicles, Division of 854
Reserve—federal funds match ..... 761(8)
Transfers:
General Fund 713
Limitations ..... 761(6)
Transportation controller allocations ..... 761(5)

Highway Patrol, N. C. (see also Law Enforcement Officers):
Patrol station funds 757
Pay grade change ..... 761(167)
Radio system, transfer to 717
Signal 25 Communicators funds 879

Highways—see Streets and Highways

Hillsborough, Town of—election districts and validation 93

Hoke County:
Ambulance service fraud 42
Firearms on highways 385
Raeford, Town of—see that heading

Holden Beach, Town of—beach access assessments 490

Holidays, Public—Martin Luther King, Jr.'s birthday 1

Hope Mills, Town of—charter revision 650

Hospitals (see also Health Care Facilities; and Public Hospitals):
Accounts, power of Human Resources Secretary to compromise 23, 806
Indigents, attorneys for—selection and pay 275
Nursing home regulation 143
Parental Liability—long-term care 12
Public health law rewrite 891
Public hospital law recodification 775

Housing and Housing Authorities:
Certificate of convenience repeal—eminent domain 149
Fair Housing Act discrimination prohibition 522
Homeownership Assistance Fund ..... 923(203)
Mobile homes—mimimum housing standards 401
Moderate income housing projects, authority for 769
Sales tax revenue use 908

Chapter

Housing Commission, N.C.—creation 778

Housing Finance Agency:
Executive Director's salary 717
Homeownership Assistance Fund ..... 923(203)
Loans to mortgage lenders 148

Human Relations Council, N.C.:
Fair Housing Act discrimination complaints 522
Membership, terms, and compensation 461

Human Resources, Board of—abolition 494

Human Resources, Secretary of:
Accounts, power to compromise 23, 806
Domiciliary homes, supervisory authority over 824
Jail and jailer standards 745
Public health law rewrite 891

Human Resources, State Department of:
Abortion funds limitation ..... 761(38)
Adult day care funds ..... 876, 923(217)
Adult Developmental Activity Programs 882
Adult special assistance 14
AFDC supplement ..... 761(45)
Aging, Governor's Advisory Council on—membership 40
Alcoholism funds study ..... 761(68)
Alleghany Sheltered Workshop funds ..... 923(182)
Autistic adult funds ..... 761(66), 923(198)
Autistic children funds ..... 761(42), 923(162)
Blind vendors' employment status 867
Block grant funds ..... 761(56)
Butner sewage treatment funds ..... 761(76)
Certificates of need:
Drug and alcohol treatment facilities freeze 415
Fees 413
Intermediate care facilities for mentally retarded 836, 850
Life Care Centers 920
Nursing home ..... 761(74), 835
Cherry Hospital tuberculosis unit ..... 761(53)
Child abuse assessments ..... 761(65)
Child support:
Paternity determination and payments, services for 527
Unemployment compensation use 33
Clean Water Bonds—rules reporting requirement 577
Community Residential Centers for Mentally Retarded Children, funds for 885
Corrections contractual authority 13

Chapter

Human Resources, State Department of:—continued
Crime Reduction Program funds ..... 923(165), 923(171)
Day care:
Coordinating agencies matching fund 847
Definition and standards 46
Inspections 261
Developmentally disabled community programs ..... 761(70)
Disability Review Commission, creation and duties of 880
Disabled care project funds ..... 923(159)
Dix adolescent treatment unit operation ..... 761(29)
Domiciliary homes—see Health Care Facilities
Eckerd Wilderness camping program ..... 761(44)
Employees as in-kind match ..... 761(75)
Farmworker Council membership ..... 923(205)
Foster care equalization ..... 761(59)
Grant match—elderly ..... 761(69)
Hayesville water system funds ..... 923(175)
Hazardous waste landfill rules criteria 546
Hearing-impaired children, funds for professionals to help 856
Holy Angels Nursery funds ..... 923(170)
Hospital-operated nursing homes—licensing 143
Human Resources, Board of—abolition 494
Hyde County APAP funds ..... 923(163)
Jails, inspection standards of 745
Juvenile Center Chapel funds ..... 923(167)
Juvenile detention funds ..... 761(63)
Low-level radioactive waste compact advisory committee 714
Lutheran Family Services funds 845
McCain Hospital:
Closure and funds use ..... 761(51)-(52), 761(55)
Personnel standards ..... 761(54)
Maternal and child health program receipts ..... 761(50)
Maternity home care funds 846
Medicaid:
County relief ..... 761(61)
Reimbursement ..... 761(60), 923(217)
Reserve ..... 761(62)
Mental Health, mental retardation, and substance abuse services—see Mental Health
Mental illness, mental retardation and substance abuser, licensure of facilities for 718
Mentally ill program funds ..... 761(47)
Morganton Center for the hearing-impaired funds ..... 923(161)
Mountain Youth Resources funds ..... 923(200)

Chapter

Human Resources, State Department of:—continued
Neural tube defect funds 843
Non-Medicaid reimbursement ..... 761(49)
Nuclear facility emergency planning fee 622
Office space use ..... 761(46)
Older Americans Act matching funds ..... 761(69)
Outpatient involuntary commitment funds 864
Parent locater service 15
Parental liability—long-term care 12
Parental program funds 868
PCB landfill special requirements 605
Planning regions aid ..... 761(30)
Poison control center funds ..... 761(64)
Public health law rewrite 891
Public hospital law recodification 775
Rent increase—owned housing ..... 761(40)
Residential child care facilities licensure 637
Single portal procedures 383
Solid waste management responsibilities and powers 795
Tammy Lynn Foundation funds ..... 923(173)
Uranium mining 279
Western North Carolina Group Home ..... 761(67)
Willie M. funds:
Obligations ..... 761(71)
Real estate purchases 25
Youth services:
Confinement time credit 133
Treatment plan formulation time limit 133

Hunting (see also Fish and Fishing; Wildlife; and particular counties and municipalities for local acts):
Appearance waiver—hunting offenses 586
Big game hunting with handguns 492
Deer hunting with lights 137
Exotic species violations 615
License fees 140
Managed hunts by Wildlife Resources Commission 403
Special conservation officer's powers 484

Hyde County—Ocracoke jail funds ..... 761(186)

I

Incentive Pay for State Employees, Committee for—creation 871

Indigents:
Attorneys for the hospitalized, selection and pay of 275

Chapter

Indigents:—continued
Guardian ad litem payment 726
Indigent counsel fee fund ..... 761(158)

Industrial Commission, N. C.—see Workers' Compensation

Industrial Development Finance Act, N.C.—repeal 717

Innovation Research Fund, N.C.—creation 899

Insanity—see Mental Health

Insurance:
Accident and health:
Group health conversion policies:
Clarification 102
Divorce or separation 668
Rate filings 669
Legislators' health benefits plan ..... 761(252)-(256)
Licensing boards health benefits 499
State employees:
Medical benefits committee membership 452
Medical plan technical amendments 922
Agents:
Automobile—designated agent bond 690
Fees—licensing and examination 790
Life:
Nonresidents 689
Representation of subsidiary or affiliate insurer 662
Motor club membership sales 802
Beneficiaries, incapacitated or minor 65
Companies:
Capital and surplus requirements—deadline extension 472
Health maintenance organization certification requirements 386
License and examination fees 790
Life insurance company investments:
Computer software 661
Futures contracts 664
Product liability experience reports 141
Unfair trade practices 831
Departmental insurance and fidelity bonds ..... 761(11)
Governor's Western Residence—insurance requirement 602
Hazardous waste landfill insurance 546
Life insurance:
Agent licensing 662, 689
Company investments 661, 664
Proof of loss 749

Chapter

Insurance:—continued
Motor clubs:
Emergency road service benefit 542
Membership sales agents 802
Motor vehicle:
Agent, designated—bond requirement 690
Financial responsibility:
False affadavit or swearing 610
Proof in accident reporting 691
Requirements and enforcement ..... 761(146)-(148)
Readable insurance policy coverage 393
Safe Driver Insurance Plan:
Property damage monetary threshold 763
Speeding convictions 763
Underinsured motorist coverage clarification 777
Mutual burial associations, purchase or merger with 766
Rate Bureau, N.C.—Safe Driver Insurance Plan revisions 763
Readable policies—coverage excluded 393
Riot insurance eligibility 396
State Property Fire Insurance Fund transfer ..... 721(21)
Study 905
Technical amendments 416
Unemployment insurance—see Employment Security Commission
Workers' Compensation:
Dividends:
Policyholders 374
Pool members 728
Rate deviations 162
Security fund contribution stoppage 628
Subrogation 645

Insurance, State Department of:
Abandoned property procedures 204
Agent, designated—bond requirement 690
Aging, Governor's Advisory Council on—designee 40
Civil penalty authority repeal 416
Commissioner's salary ..... 761(206)-(207)
Computer Commission membership—Commissioner 267
Data processing funds 861
Fire department classifications—pension fund purposes 416
Health maintenance organization certification requirements 386
Liability Insurance Commission membership—Commissioner 543
Life insurance agent licensing 662, 689
Motor club agent licensing 802
Product liability experience reports 141

Chapter

Interest (see also Loans):
Consumer loan rate—sunset repeal 68
Highway condemnation judgment rates 812
Literary fund loan rates 477
Loan rates 126
Partnership debt obligation rates 719
Property taxes—unpaid amounts 64
Revolving credit rates 126
Subcontractors, late payment to 804
Tax exclusion repeal 713

Intestate Succession—see Decedents' Estates

Iredell County:
Boats to respond to sirens or lights 356
Hospital lease and sale 228
Life preserver requirement 200
Statesville, City of—see that heading
Troutman, Town of—see that heading

J

Jackson, Town of:
Charter revision 286
Motor vehicle tax 75, 188

Jackson County—pawnbrokers in unincorporated areas 169

Jails—see Correctional Institutions

Jamestown, Town of—motor vehicle tax 75, 188

Johnston County—Four Oaks, Town of—see that heading

Jones County—auditorium funds 853

Judicial Council—repeal 774

Justice Officer's Standards Division—creation and powers 558

Justice, State Department of:
Administrative rules—filing and publication 641
Attorney General's Salary ..... 761(205), 761(209)
Consumer protection violations, penalties for 721
Crime Victims Compensation Commission 832
Criminal Justice Education and Training Standards Commission—membership 807
Handicapped, attorney to specialize in law of 850
Justice Officer's Standards Division—creation and powers 558
Mecklenburg Custody and Visitation Dispute Mediation Program funds ..... 761(162)
Purchase and contract rules review 719
Radar Act implementation funds 877

Chapter

Justice, State Department of:—continued
Sheriff's Education and Training Standards Commission transfer 558
Submerged land attorneys, funds for ..... 761(168.1)
Technical amendments 768
Uranium mining legal role 279

Juveniles—see Minors

K

Kannapolis, City of:
Boundaries modification 227
Firemen's supplemental retirement benefits 497
Incorporation 191

Kenansville, Town of—motor vehicle tax 75

King, Martin Luther, Jr.—public holiday 1

King, Town of—incorporation 351

Kinston, City of—land sale 207

L

Labor (see also Employment Security; Employment Security Commission; and Workers' Compensation):
Unemployment insurance:
Eligibility 625
Insurance payment method 585
Trust fund revisions 585
Wage and hour exemptions 708
Workers' compensation:
Injury definition 833
Leave use 899

Labor, Commissioner of:
Aging, Governor's Advisory Council on—designee 40
Community water system boiler exemption 654
Computer Commission membership 267
Farmworker Council membership ..... 923(205)
Inspection fees 713
OSHA exemption for small fire departments 164
Wage and hour exemptions 708

Landlord and Tenant:
Condominium conversion, tenant protection in 624
Eviction procedures 672
Lodging property sales tax 713
Summary ejectment service of process 332

Chapter

Landscape Contractors Registration Board—membership, terms and fees 108

Law Enforcement Officers:
Accident reporting limit 229
Animal injury crime 646
Arrest of minor, parental notification of 681
Concealed weapons exemption 86
Criminal Justice Education and Training Standards Commission—membership 807
Death benefits ..... 761(236)-(237)
Driving while impaired offense 435
Eviction procedures 672
Fictitious licenses authority 629
Involuntary commitment procedures 638
Justice Officers' Standards Division—creation and powers 558
Mental patient escapees—return procedure 548
Minimum Salary Act repeal 781
Post-towing procedures 420
Prisoner escape crime 694
Retirement tax-sheltering—system restructure 468
Roadblock authority 435
Sheriffs:
Bonding 670
Duties 670
Education and Training Standards Commission 558, 745
Prisoner confinement sites 631
Special conservation officer powers 484
Towing, compensation for 420
Traffic control officers, local agency appointment of 483
Vehicle number defacement crime 592
Weapons disposition—SBI responsibilities 517

Laws Amended or Repealed:
1786 Private Laws:
Chapter 59 445
1794 Private Laws:
Chapter 95 445
1798 Public Laws:
Chapter 73 445
1798 Public Laws:
Chapter 36 11
1801 Public Laws:
Chapter 70 11
1812 Private Laws:
Chapter 118 45

Chapter

Laws Amended or Repealed:—continued
1825 Private Laws:
Chapter 120 445
1829-30 Private Laws:
Chapter 54 445
1830-31 Private Laws:
Chapter 141 445
1840-41 Private Laws:
Chapter 55 445
1854-55 Private Laws:
Chapter 243 445
1866-67 Private Laws:
Chapter 35 445
1872-73 Public Laws:
Chapter 10 286
Chapter 110 445
Chapter 180 445
1874-75 Private Laws:
Chapter 114 445
1876-77 Public Laws:
Chapter 183 287
Chapter 186 445
1885 Private Laws:
Chapter 138 445
1887 Public Laws:
Chapter 144 157
Chapter 286 445
Chapter 365 445
1889 Private Laws:
Chapter 64 425
Chapter 130 287
Chapter 272 425
1889 Public Laws:
Chapter 557 445
1891 Private Laws:
Chapter 250 445
1893 Private Laws:
Chapter 19 445
1895 Private Laws:
Chapter 24 445
1897 Private Laws:
Chapter 55 445
1899 Private Laws:
Chapter 409 212

Chapter

Laws Amended or Repealed:—continued
1901 Private Laws:
Chapter 339 445
1901 Public Laws:
Chapter 455 445
1903 Public Laws:
Chapter 24 287
Chapter 224 425
1905 Public Laws:
Chapter 340 595
1907 Private Laws:
Chapter 86 445
1907 Public Laws:
Chapter 303 445
Chapter 418 445
1908 Public Laws:
Chapter 816 595
1909 Private Laws:
Chapter 320 445
Chapter 345 659
1911 Private Laws:
Chapter 40 659
Chapter 299 659
1913 Private Laws:
Chapter 79 659
1913 (Extra Session) Public Laws:
Chapter 68 425
1913 Public-Local Laws:
Chapter 536 659
Chapter 1144 659
1915 Private Laws:
Chapter 55 552
Chapter 77 659
Chapter 94 659
1915 Public-Local Laws:
Chapter 21 659
Chapter 205 45
1917 Public Laws:
Chapter 178 425
1920 Public Laws:
Chapter 99 287
1921 Private Laws:
Chapter 200 445

Chapter

Laws Amended or Repealed:—continued
1921 Public-Local Laws:
Chapter 334 434
1921 (Extra Session) Private Laws:
Chapter 33 445
1921 (Extra Session) Public Laws:
Chapter 136 212
1923 Public Laws:
Chapter 146 445
1923 Public-Local Laws:
Chapter 333 659
1925 Private Laws:
Chapter 13 659
1927 Private Laws:
Chapter 36 659
Chapter 169 659
1927 Public Laws:
Chapter 224 10
1931 Private Laws:
Chapter 121 117
Chapter 178 445
Chapter 186 117
1931 Public-Local Laws:
Chapter 466 659
1933 Private Laws:
Chapter 76 659
Chapter 234 659
1933 Public Laws:
Chapter 228 212
1935 Public Laws:
Chapter 461 310
1935 Public-Local Laws:
Chapter 32 659
Chapter 185 659
Chapter 263 659
Chapter 404 434
Chapter 478 659
1937 Private Laws:
Chapter 16 445
Chapter 26 504
1937 Public-Local Laws:
Chapter 76 659
Chapter 391 310

Chapter

Laws Amended or Repealed:—continued
1938 (Extra Session) Public-Local Laws:
Chapter 7 233
1939 Public-Local Laws:
Chapter 37 659
Chapter 39 659
Chapter 41 233
Chapter 256 337
Chapter 523 659
Chapter 606 109
1941 Public-Local Laws:
Chapter 19 445
Chapter 98 444
Chapter 340 659
Chapter 412 659
1943 Session Laws:
Chapter 31 445
Chapter 397 771
Chapter 601 444
Chapter 669 550
1945 Session Laws:
Chapter 137 44
Chapter 673 742
1947 Session Laws:
Chapter 279 93
Chapter 316 742
Chapter 335 445
Chapter 926 506
Chapter 995 742
1949 Session Laws:
Chapter 385 429
Chapter 1184 272
Chapter 1227 233
1951 Session Laws:
Chapter 237 659
Chapter 576 463
Chapter 593 233
Chapter 860 659
1953 Session Laws:
Chapter 135 742
Chapter 295 425
Chapter 899 466
Chapter 1273 431

Chapter

Laws Amended or Repealed:—continued
1955 Session Laws:
Chapter 101 463
Chapter 379 659
Chapter 411 232
Chapter 1237 463
1957 Session Laws:
Chapter 168 10
Chapter 221 742
Chapter 368 339
Chapter 672 445
Chapter 900 659
Chapter 1093 445
Chapter 1155 ..... 169, 382
Chapter 1198 444
Chapter 1281 266
Chapter 1436 764
1959 Session Laws:
Chapter 305 636
Chapter 278 659
Chapter 674 659
Chapter 737 445
Chapter 1073 151
Chapter 1198 445
1961 Session Laws:
Chapter 56 659
Chapter 64 445
Chapter 85 742
Chapter 91 445
Chapter 141 237
Chapter 245 431
Chapter 619 742
Chapter 620 742
Chapter 728 371
Chapter 801 94
Chapter 918 184
Chapter 1035 445
1963 Session Laws:
Chapter 22 445
Chapter 115 350
Chapter 315 211
Chapter 434 10
Chapter 588 659
Chapter 936 129

Chapter

Laws Amended or Repealed:—continued
1963 Session Laws:—continued
Chapter 938 122
Chapter 1203 184
1965 Session Laws:
Chapter 216 92
Chapter 222 350
Chapter 282 350
Chapter 427 463
Chapter 713 437
Chapter 737 310
Chapter 974 659
Chapter 979 809
Chapter 1051 16
1967 Session Laws:
Chapter 216 437
Chapter 237 350
Chapter 397 93
Chapter 615 128
Chapter 666 475
Chapter 973 269
Chapter 808 475
Chapter 881 56
Chapter 973 428
Chapter 1000 310
Chapter 1034 445
Chapter 1216 659
1969 Session Laws:
Chapter 217 742
Chapter 363 503
Chapter 368 445
Chapter 384 437
Chapter 434 498
Chapter 509 184
Chapter 510 184
Chapter 569 337
Chapter 702 723
Chapter 793 444
Chapter 820 425
Chapter 1058 636
1971 Session Laws:
Chapter 66 463
Chapter 271 291
Chapter 408 497

Chapter

Laws Amended or Repealed:—continued
1971 Session Laws:—continued
Chapter 411 ..... 101, 145
Chapter 419 238
Chapter 503 892
Chapter 614 463
Chapter 909 577
Chapter 1178 764
1973 Session Laws:
Chapter 317 636
Chapter 327 742
Chapter 335 636
Chapter 346 265
Chapter 359 95
Chapter 388 464
Chapter 432 437
Chapter 453 636
Chapter 701 463
Chapter 747 764
Chapter 868 742
Chapter 876 179
Chapter 983 636
Chapter 1046 437
Chapter 1337 636
1975 Session Laws:
Chapter 165 97
Chapter 180 202
Chapter 247 504
Chapter 249 552
Chapter 337 338
Chapter 354 431
Chapter 379 265
Chapter 398 764
Chapter 423 497
Chapter 657 124
Chapter 671 ..... 458, 474
Chapter 677 577
Chapter 687 636
Chapter 858 168
1977 Session Laws:
Chapter 5 425
Chapter 15 464
Chapter 55 636
Chapter 76 265

Chapter

Laws Amended or Repealed:—continued
1977 Session Laws:—continued
Chapter 172 ..... 4, 234
Chapter 190 764
Chapter 289 250
Chapter 434 487
Chapter 495 ..... 347, 366, 367, 430, 432, 535, 597
Chapter 536 57
Chapter 847 19
Chapter 1165 95
1979 Session Laws:
Chapter 167 124
Chapter 181 429
Chapter 184 110
Chapter 257 636
Chapter 284 464
Chapter 289 466
Chapter 307 112
Chapter 308 263
Chapter 324 291
Chapter 341 58
Chapter 372 121
Chapter 501 180
Chapter 557 ..... 235, 244, 636
Chapter 569 742
Chapter 660 730
Chapter 753 730
Chapter 945 871
Chapter 1078 444
Chapter 1115 265
Chapter 1116 265
Chapter 1168 260
Chapter 1187 591
Chapter 1249 458
Chapter 1319 ..... 98, 299
Chapter 1321 207
1981 Session Laws:
Chapter 21 116
Chapter 40 339
Chapter 91 636
Chapter 117 21
Chapter 137 405
Chapter 144 ..... 104, 123
Chapter 192 ..... 4, 234

Chapter

Laws Amended or Repealed:—continued
1981 Session Laws:—continued
Chapter 211 636
Chapter 258 366
Chapter 269 716
Chapter 331 788
Chapter 352 359
Chapter 363 503
Chapter 423 477
Chapter 505 ..... 80, 736
Chapter 561 68
Chapter 622 764
Chapter 626 571
Chapter 647 464
Chapter 666 287
Chapter 706 142
Chapter 756 244
Chapter 859 ..... 761(111)
Chapter 868 207
Chapter 906 462
Chapter 992 170
Chapter 993 ..... 577, 908
Chapter 1127 920
Chapter 1147 318
Chapter 1154 182
Chapter 1166 170
Chapter 1189 100
Chapter 1194 242
Chapter 1244 643
Chapter 1282 ..... 27, 761(174.1), 908
Chapter 1399 73
1983 Session Laws:
Chapter 11 120
Chapter 21 116
Chapter 23 806
Chapter 52 636
Chapter 80 736
Chapter 98 299
Chapter 101 145
Chapter 127 699
Chapter 134 534
Chapter 169 382
Chapter 171 442
Chapter 175 720

Chapter

Laws Amended or Repealed:—continued
1983 Session Laws:—continued
Chapter 181 774
Chapter 197 768
Chapter 226 853
Chapter 313 768
Chapter 340 907
Chapter 504 906
Chapter 504 907
Chapter 558 745
Chapter 566 734
Chapter 567 712
Chapter 582 738
Chapter 600 744
Chapter 629 768
Chapter 636 768
Chapter 677 907
Chapter 713 ..... 761(142)
Chapter 761 923
Chapter 757 803
Chapter 758 811
Chapter 761 ..... 923(217)
Chapter 876 ..... 923(217)

Lawyers—see Attorneys at Law

Legislative Research Commission—see General Assembly

Legislative Services Commission—see General Assembly

Legislature—see General Assembly

Lenoir, City of—annexations 404

Lenoir County:
Hunting 41
Land sales 207
Pawnbrokers in unincorporated areas 169

Lexington, City of:
Firemen's supplemental benefits 462
Industrial-Agricultural Development Commission membership 94
Motor vehicle tax 75, 188

Liability Insurance Commission, Public Officers and Employees— Insurance Commissioner membership 543

Libraries:
Film availability to schools 819
Voter registration deputies 588

Chapter

License Plates—see Motor Vehicles: Registration plates

Licenses and Licensing:
Accountants 185
Bingo 896
Alarm systems 300, 786, 810
Alcoholic beverages 113
Architects 47
Attorneys 177
Auctioneers 603, 751
Bail bondsmen and runners 790
Collection agencies 790
Cosmetologists 438, 523
Day Care Licensing Commission 261, 283, 612
Drivers' licenses—see that heading: Motor Vehicles
Engineers and land surveyors 183
Fisheries licensing 570
Foresters 103
Fur dealing 140
Hatchery and chicken dealers 290
Hunting and fishing fees 140
Insurance agents:
Fees 790
Life insurance 662, 689
Landscape contractors 108
Licensing boards generally:
Auditor law revision 913
Health benefits 499
Investment income through Treasurer's program 515
Retirement coverage exemption 412
Temporary rules filing procedure 857
Mentally ill, mentally retarded, and substance abusers, facilities for 718
Midwifery 897
Morticians 69
Motor clubs 790, 802
Nursing Home Administrators 72, 215, 737
Nursing homes, hospital operation of 143
Osteopaths 107
Pest control 193
Pharmacists 196
Physicians 53
Plumbing and heating contractors 569
Podiatrists 217
Private Protective Services 67, 259, 673, 794, 810
Psychologists 37, 82

Chapter

Licenses and Licensing:—continued
Public hospitals 775
Realtors 81, 384, 814
Registered practicing counselors 755
Residential child care facilities 637
Sanitarians 489
Scale Technicians 111
Social workers 495
Trucks 190

Liens—see Debtors and Creditors

Lieutenant Governor (see also General Assembly):
Appointments 911
Computer Commission membership 267
Public Education Policy Council 860
Salary ..... 761(211)

Lincoln County:
Boats to respond to sirens or lights 356
Education Board elections 179
Life preserver requirement 200
Lincolnton, City of—see that heading
Teacher payday 178

Lincolnton, City of—Alderman Board name change 58

Liquor—see Alcoholic Beverages

Loans (see also Interest):
Agriculture Facilities Finance Agency 789
Bank loan limitations 214
Homeownership Assistance Fund ..... 923(203)
Housing Finance Agency—to mortgage lenders 148
Interest rates 126
Literary fund loan interest rate 477
Savings and loan law amendments 144
Second mortgage fees 541

Local Government Commission:
Energy Development Authority bonds approval 652
Joint municipal power agencies approval authority 574
Registered public obligations issuance procedures 322
Rural fire department protection—annexed areas 636
Salary references 717
Sales tax, uses of half-cent 908
Service extension petitions—annexed areas 636

Louisburg, Town of—land sale 342

Lumberton, City of—charter revisions 350

Chapter

Lynn, Town of—incorporation 600, 744

M

McDowell County:
Marion, City of—see that heading
Motor vehicle tax—all municipalities 75, 188
Property transfers 224

Macon County:
Ambulance service fraud 42
Force account construction limit 355

Madison County—motor vehicle tax—all

Madison, Town of—school merger 783

Marvin, Town of—incorporation 514
municipalities 75, 188

Maggie Valley, Town of—annexation powers 636

Magistrates—see Courts

Magnolia, Town of—motor vehicle tax 75, 188

Maiden, Town of—street assessments 346

Management Council, Governor's—creation and powers 340, 907

Manufactured Homes:
Interest rates 126
Minimum housing standards application 401
Salesmen—motor vehicle definition exclusion 312

Manufactured Housing Board, N. C.—appointments authority 717

Marine Fisheries Commission:
Appeals procedure 258
Clam and oyster leases 621
Fisheries' licenses and fees 570
Permit deadlines—dredging and filling 258
Polluted areas, expedited reopening of 620
Proclamations review authority 619
Rules filing requirement 221
Shellfish leases and fees 601, 621
Special Conservation Officer—appointment and powers 484

Marion, City of—motor vehicle tax 75

Marital and Family Therapists:
Confidentiality privilege:
Alimony and divorce actions 410
Override 410

Chapter

Marriage:
Domicile of wife—income tax purposes 195
Entireties property—income tax reporting 449
License fees to Children's Trust Fund 894
License index 699

Martin County:
Regional jail participation 716
Williamston, Town of—see that heading

Mayodan, Town of—school merger 783

Mebane, Town of—motor vehicle tax 75, 188

Mecklenburg County:
ABC Board 788
Boats to respond to sirens or lights 356
Charlotte, City of—see that heading
Construction site cleanup 264
Custody and Visitation Dispute Mediation Pilot Program ..... 761(162)
Education Board vacancies 56
Gun permits 145
Life preserver requirement 200
Mint Hill, Town of—see that heading
Occupancy tax authorization 908
Ordinance violation fines 118
Special assessments authorization 189
Special use permits procedure 488
Subdivision speed limits 153
Traffic control officer exemption 483

Medicaid—see Social Services

Medical Cost Containment, Legislative Commission on—
creation 875

Medical Examiners, Board of:
Application fee 53
Midwifery regulation 897

Medicine, Institute of—creation ..... 923(197)

Mental Health:
Area program funds ..... 761(28)
Certificate of need freeze—drug and alcohol treatment 415
Dix adolescent treatment unit operation ..... 761(29)
Group home patients aid eligibility ..... 761(34)
Incapacity of defendant to proceed—dismissal with leave 460
Insurance proceeds of incapacitated 65
Intermediate care facilities, certificate of need freeze on 836

Chapter

Mental Health:—continued
Involuntary commitment:
Defendants 380
Outpatients 638, 864
Transportation 138
Juvenile emergency admission to hospital 302
Mental health funds ..... 761(28)
Mental health, mental retardation, and substance abuse services and entities:
Catchment area definition 280
Domiciliary home requirements exemption 611
Employee records confidentiality 280
Facilities, licensure of 718
Fund withdrawal 5
Intermediate care facilities certificates of need 836, 858
Juvenile admissions procedure 889
Membership 6
Mixed beverage taxes for local mental health programs ..... 761(71)
Patient information to Correction Department 491
Program funds ..... 761(47)
Real property purchases—local or federal funds 402
Single portal procedures 383
Murdoch Center construction ..... 761(39)
Patient escapees, procedure for return of 548
Prisoners, programs for 376
Willie M. funds and obligations ..... 761(77)

Mental Health Study Commission:
Alcohol and drug treatment ad hoc study 415
Study extension 268

Midwifery—regulation 897

Militia:
Age and composition 314
Honorable discharge, mitigating factor for 606
National Guard court-martial procedures 315, 316
Pensions ..... 761(250)-(251)
Unemployment insurance definition 675

Milk Commission—membership and salaries 717

Mines and Mining:
Depletion allowance allocation 713
Mineral claims extinction 502
Uranium mining regulation 279

Minimum Wage—see Labor

Chapter

Minors (see also Parent and Child):
Adoption:
Acknowledgement requirements 30
Consent revocation:
Procedure 688
Time limit 83
Jurisdiction 89
Notice to father 292
Technical amendments—references and nominclature 454
Age limit for various offenses 175, 720
Alcohol purchase 435, 740
Arrest notification to parents 681
Child abuse:
Crime 916
Family support center funds ..... 923(160)
Medical assessments, funds for ..... 761(65)
Prevention programs 894
Punishment 653
Reporting requirement 199
Sexual performance crime 916
Child custody orders, recognition of foreign 563
Child support:
Employment security benefit, assignment of 33
Enforcement on appeal 530
Enforcement procedures 677, 907
Liability through high school 54
Motions notice requirement 587
Probation revocation for nonpayment 567, 712
Recovery and paternity determination services 527
Unemployment compensation for 33
Children with special needs:
Commission membership 863
Obligations 247
Day Care—see that heading
Dependent care, gross income exclusion for 895
Drivers' licenses:
Color coding 443
Provisional licenses, revocation of 435
Drug sales to minors—punishment 414
Guardian ad litem:
Payment 726
Statewide program ..... 761(159)-(160)
Hospitalization—parental liability 12
Incompetent juveniles, procedure after commitment of 889

Chapter

Minors (see also Parent and Child):—continued
Insurance proceeds 65
Juvenile Code—see that heading: Criminal Procedure
Mental illness, emergency admissions for 302
Parent locator service 15
Parental rights termination:
Amendments 89
Guardian ad litem petition 870
Placement review 607
Residential child care facilities licensure 637
School entry age 656
Summons—parental rights termination cases 581

Mint Hill, Town of—annexation 372

Mitchell County:
Bakersville, Town of—see that heading
County accountant office abolition 428
Tax collector appointive 269

Mobile Homes—see Manufactured Homes

Monroe, City of:
Force account work restrictions 270
Property sale 154
School merger conditions 475
School unit name change 475

Montgomery County—Education board land sale 78

Moore County:
Coroner abolition 36
Education Board:
Compensation 338
Vacancies 16
Pinehurst, Town of—see that heading
Southern Pines, Town of—see that heading

Morehead City, City of—annexation effective date 59

Morganton, City of—mayoral powers 202

Mortgages and Deeds of Trust (see also Deeds and Conveyances):
Computerized indexes 699
Homeownership Assistance Fund ..... 923(203)
Housing Finance Agency—loans to mortgage lenders 148
Information, misuse of borrower's confidential 831
Interest rates 126
Notice of sale, proof of 799

Mortuary Science, Board of—membership, terms, and powers 69

Chapter

Motor clubs:
Emergency road service reimbursement limit 542
Insurance licensing 802
License fees 790

Motor Vehicles:
Accidents:
Duty to stop 912
Reporting limit 229
Dealers:
Definition, exclusions from 312
Franchises 704
Drivers' Licenses:
Cancelled foreign licenses 545
Change of address—licenses and identification cards 521
Color-coded licenses 443
Driving while revoked 51, 435
Duplicate licenses, procurement of 443
Exemption—nonresident military dependents 436
Fictitious licenses to certain law enforcement 629, 768
Jury lists—licensed drivers 197, 754, 768
Limited driving privileges:
Conditions 435, 798
Effective date 77
Record, charge for copy of ..... 761(149)
Revocation conditions and procedures—driving while impaired offenses 435
Suspension:
Chemical test, refusal of—appeal 87
Insurance, lack of 610
Procedures 538
Speeding—first offense calculation 77
Technical amendments 768
Financial responsibility proof—accident reporting 691
Financial responsibility requirements and enforcement ..... 761(146)-(148)
Fire marshall sirens and lights 32
Forfeiture of vehicle—driving while impaired offenses 435
Fuel taxes—leased vehicles 29
Insurance—see that heading
Lights, colors of 245
Manufacturers:
Buyer's remedies 598
Trade practices 704
Muffler-exhaust system requirement 132
Motor carrier fuel tax and inspection fees 713

Chapter

Motor Vehicles:—continued
Motor clubs emergency road service reimbursement 542
Number defacement or alteration crime 592
Odometer disclosure on title certificate 387
Parking:
Facility revenue bond amendments 168
Handicapped space, fine for parking in 326
Post-towing procedures 420
Prima facie evidence rule—rented vehicles 753
Ride-sharing 102
Registration and Registration Plates:
Diplomatic plates 317
Fees:
Increase ..... 713, 761(142)-(145)
Mail, service by 50
Permanent plates 593
Fictitious plates 629, 768
License plate study ..... 761(164)
Plate designations and renewal 253
Revenues from personalized plates 848
Revocation conditions ..... 761(147)
Sheltered workshop vehicle permanent plates 593
Street rods 323
Tow dolly exemption 288
Trailer converter exemption 732
Transporter plates eligibility 426
Radar technician qualifications 34
Safety markings—railroad crossings 254
Sales tax 713
School buses, passing stopped 779
Standards compliance fees 223
Tandem trailers, operation of 898
Taxes by municipalities 75, 188
Taxicab tax limit 75, 188
Title certificate requirement 252
Traffic control officers, authority to appoint 483
Weight limits:
Farm vehicle exemption 407
Registration and licensing—property haulers 43
Vehicles generally 724

Motor Vehicles, Commissioner of (see also Motor Vehicles):
Driving while impaired offense 435
Drivers' licenses:
Cancellation effect from foreign jurisdictions 545

Chapter

Motor Vehicles, Commissioner of (see also Motor Vehicles):—continued
Drivers' licenses:—continued
Revocation for driving while impaired 435
Suspensions 538, 610
Financial responsibility requirements and enforcement ..... 761(146)-(148)
Fictitious license authority 629
Lien enforcement on motor vehicles—notice requirement 44
Motor carrier safety program transfer ..... 761(137)-(138)
Motor vehicle dealer franchises 704
Perjury warning 610
Permanent plates issuance 593
Registration fees—service by mail 50
Salary 717
Standards compliance fee authorization 223
Tax Adjustment Act 713
Title certificate requirements 252
Vehicle seizure and disposition—number defacement crime 592
Voter registration by license examiners 854

Mount Olive, Town of—motor vehicle tax 75, 188

Municipal Corporations (see also Counties):
Annexation:
Local act repealer 636
Procedures, revision of 636
Technical amendment 768
Auctioneers, taxes on 751
Billboard removal compensation extension 318
Coastal Resources Commission nominations—affected cities 486
Community development programs, private sales in 797
Drainage programs, property tax authority for 828
Elections, candidate filing restrictions for 330
Energy Development Authority participation 652
Historic properties sales authority 456
Hospital, sales tax refund to 594
Housing projects, authority for moderate income 769
Industrial and economic development tax authority 511
Inspection department procedures 377
Involuntary commitment transportation 138
Joint municipal assistance agencies—structures and powers 609
Joint municipal power agencies—single municipality authority 574
Junk car towing and disposal 420
Law enforcement officer retirement tax shelter restructure 468
License taxes:
Pest control exemption 193

Chapter

Municipal Corporations (see also Counties):—continued
License taxes:—continued
Retailers 38
Metropolitan sewerage district powers 333
Mobile homes—minimum housing standards 401
Motor vehicle taxes 188
Mountain ridge protection law 676
Nonpartisan municipal elections procedures 644
Oath administration by city clerks 648
Ordinance introduction date 696
OSHA exemption for small fire departments 164
Personal property disposal 130
Planning agency, extraterritorial area representation on 584
Planning department compensation 377
Property disposition from condemned buildings 698
Property taxes—interest on unpaid amounts 64
Public health law rewrite 891
Public hospital law recodification 775
Public investments into savings and loan 158
Purchases and contracts through Administration Department 717
Registered public obligations issuance procedure 322
Resolutions authority—water projects 717
Sales tax levy and uses 908
Solid waste management facilities, construction of 795
Special assessments tax discount 381
Speed limits in nonfunctioning municipalities 131
Tax lien sales 808
Taxicab tax limit 188
Technical amendments 768
Telephone network participation 406
Uranium mining notification 279
Vacancies in elective offices 827
Video game tax 713
Voter registration—dissolved sanitary districts 537
Wastewater treatment contracts 489
Water resources projects cost-sharing eligibility 450

Murfreesboro, Town of—charter revision 445

Murphy, Town of—annexation 345

Mutual Burial Associations—see Insurance

N

Nash County:
Battleboro, Town of—see that heading

Chapter

Nash County:—continued
Building permits—small jobs 614
Industrial development funds 339
Rocky Mount, City of—see that heading

National Guard—see Militia

Natural Resources and Community Development, Secretary of:
Coastal Area Management Act—see that heading
Mountain ridge protection enforcement assistance 676
Permit authority—local government minor development 399
Proclamations review by Marine Fisheries Commission 619

Natural Resources and Community Development, State Department of:
Aerial mapping program ..... 761(169)
Aging, Governor's Advisory Council on—designee 40
Beach access program requirements 757
Brunswick boat access funds ..... 923(237)
Coastal Area Management Act—see that heading
Coastal Resources Advisory Council—designees 249
Coastal Resources Commission—see that heading
Community development block grants study ..... 761(126)
Community services block grants ..... 761(124)-(125)
Covington Park funds ..... 923(255)
Earth Resources Council abolition 667
Environmental Management Commission—see that heading
Forests:
Firefighters overtime ..... 761(119)
Law defined 327
Programs and studies ..... 761(120)-(122)
Ranger authority 327
Resources Division headquarters funds 853
Scotland County fire equipment storage building ..... 923(233)
Fort Macon funds ..... 923(228)
High Point Environmental Center funds ..... 923(240)
Kernersville Civitan Park funds ..... 923(254)
Land donations for conservation, certification of 793
Management Council, Governor's—membership 540
Marine Fisheries Commission—see that heading
Mining Commission, N.C.—see Mines and Mining
Revenue from personalized plates, transfer of 848
Soil-water conservation funds ..... 923(245)
Staff utilization, parks and recreation ..... 761(123)
Swift Creek Township study ..... 923(204)
Uranium mining regulation 279

Chapter

Natural Resources and Community Development, State Department of:—continued
Water Resources Board—reference repeal 222
Water resources programs, local government cost-sharing in 445
Waynesborough Park funds ..... 923(257)
White Oak River Study funds continuation 869
Wildlife Resources Commission, funds transfer to ..... 761(127)

Need-based Medical Student Loans, N.C. Board of:
Membership ..... 717, 761(181)
Study ..... 761(182)

Negligence—see Torts and Tortfeasors

Negotiable instruments—returned check processing fee 529

New Bern, City of:
Aldermen:
Election 174
Loans and leases 364
Community development activities 115
Education Board redistricting and membership 236
Firemen's supplemental retirement fund 551
Land acquisition 364
Mayor:
Election 174
Voting authority 266

New Hanover County:
Ambulance service debt collection 186
Bail bondsmen under Statewide law 742
County Commission expansion referendum 595
County Commissioner vacancies—procedural exemption 418
District-style elections 595
Energy facility construction contract, exemption for 365
Law library 742
Motor vehicle tax—all municipalities 75, 188
Occupancy tax authorization 908
Retirement system termination 550
Road closing authorization 114
Street numbers to private roads 98
Teacher payday 573
Wilmington, City of—see that heading

Newton, City of—firemen's supplemental retirement benefits 503

Northampton County—Jackson, Town of—see that heading

Norwood, Town of—extraterritorial jurisdiction extension 91

Chapter

Notaries Public:
Certification forms—plats and maps 473
Notarial jurat validation 391
Qualifications and standards 427
Validation statutes:
Acts 215
Instruments 398

Nuclear Power Plants—see Energy

Nurses—standards change 73

Nursing Home Administrators, State Board of Examiners of:
License fee maximum 215
License renewal requirements 72
Qualifications 737

Nursing Homes—see Health Care Facilities

Nursing, N. C. Board of—midwifery regulation 897

O

Occupational Licensing Boards—see Licenses and Licensing

Occupational Safety and Health, State Advisory Council on—
expenses 717

Ocean Isle Beach, Town of—occupancy tax authorization 908

Onslow County:
Fox hunting 109
Parole consideration hearings ..... 761(157)

Orange County:
Carrboro, Town of—see that heading
Chapel Hill, Town of—see that heading
Hillsborough, Town of—see that heading
Parcel identifier index 3
Voting procedures—absentees 192

Osteopathic Examination and Registration, State Board of—
membership and registration fees 107

P

Pamlico County—bear hunting with dogs prohibition 448

Parent and Child (see also Minors):
Adoption:
Acknowledgement requirements 30
Consent revocation time limit 83
Notice to father requirement 292
Technical amendments—references and nomenclature 454

Chapter

Parent and Child (see also Minors):—continued
Child custody orders, recognition of foreign 563
Child placement review after rights termination 607
Child support—see that heading: Minors
Hospitalization—parental liability 12
Infant separation from parents—social service investigation 293
Mental illness—emergency admission of child to hospital 302
Parental rights termination:
Amendments 89
Guardian ad litem petition 870
Obsolete reference repeal 512
Placement review 607
Summons 581
Parent locator service 15

Parks:
Acquisition 853
Broadway Park improvement ..... 923(256)
Covington Park ..... 923(255)
Eno land acquisition funds 853
Farris Park funds ..... 923(138)
Granville Senior Citizens Park ..... 923(102)
Great Smokey Mountains National Park funds ..... 923(90)
Kernersville Civitan Park ..... 923(254)
Mecklenburg Parks and Recreation Department ..... 923(262)
Pilot Mountain Recreational Park ..... 923(232)
Senior Citizens Park ..... 923(213)
Staff utilization—Natural Resources Department ..... 761(123)
Waynesborough Park ..... 923(257)

Parkton, Town of—motor vehicle tax 75, 188

Parole—see Correctional Institutions

Parole Commission:
Conditions, authority to impose added 547
Early parole authority 557
Salaries ..... 717, 761(216)
Supervision fee authorization 562

Pasquotank County:
Animals, sales of impounded 166
Elizabeth City, City of—see that heading

Pender County:
Motor vehicle tax—all municipalities 75, 188
Surf City, Town of—see that heading
Topsail Beach, Town of—see that heading

Chapter

Pensions—see Retirement

Perquimans County:
Hertford, Town of—see that heading
Hunting from roads 213
Winfall, Town of—see that heading

Person County:
Airport eminent domain authority 829
Block grant expenditure regulations 566, 734
Community development expenditures authorization 734
Special deputy program and benefits 344

Personal Property—see Property

Personnel Commission, State:
Administrative rule adoption by reference 641
County personnel system option 674
Deferral agency designation—EEOC complaints 516
Shift premium pay ..... 761(17)

Personnel, Office of State:
Administrative rules authority 76
County personnel systems 674
Deferral agency designation—EEOC complaints 516
Incentive Pay for State Employees, Committee for 871
Management Council, Governor's—membership 540
Personnel Director's salary 717
Salaries ..... 761(216)

Pharmacy, Board of—licenses and fees 196

Physicians and Surgeons (see also Licenses and Licensing):
Confidentiality:
Divorce and alimony cases 410
Override 410
Public records exemption 471
Involuntary commitment procedures—defendants 380
Life insurance proofs of loss 749
Medicine, Institute of—creation ..... 923(197)
Natural Death Act concurrence requirement 313, 768
Public health law rewrite 791
Public hospital law recodification 775

Pilot Mountain, Town of—annexation 357

Pinehurst, Town of—police jurisdiction 260

Pitt County:
Ayden, Town of—see that heading
Bethel, Town of—see that heading

Chapter

Pitt County:—continued
Farmville, Town of—see that heading
Fountain, Town of—see that heading
Greenville, City of—see that heading
Pawnbrokers in unincorporated areas 382
Tar River Port Commission repeal 233

Plumbing and Heating Contractors, State Board of Examiners for—definition and scope 569

Plymouth, Town of—motor vehicle tax 75, 188

Podiatry Examiners, Board of—membership and licensure 217

Police—see Law Enforcement Officers

Polk County:
Lynn, Town of—see that heading
Tryon, Town of—see that heading

Pollution—see Environment

Ports Authority, N. C.—salary of director 717

Ports Railway Commission—salary of general manager 717

President of the Senate—see Lieutenant Governor

Princeville, Town of—community revitalization projects 265

Prisons and Prisoners—see Correctional Institutions

Private Protective Services Board:
Amendments 794, 810
Detection of deception examiner definition 259
Fees and licenses 67
Recovery fund creation 673

Probate—see Wills

Probation—see Criminal Procedure

Property:
Personal:
Billboard removal, government compensation for 318
Contraband disposal—prisons 289
Forfeitures in drug cases 528
Indexes of personal property—Registers of Deeds 127
Joint municipal assistance agency powers 609
Mineral claims extinction 502
Personal property disposal 130
Time-sharing arrangements, tax listing of 785
Real:
Agricultural land use value classification 821
Agriculture Department land sales 717

Chapter

Property:—continued
Real:—continued
Beach access land acquisition 334
Community redevelopment programs private sales in 797
Computerized indexes 699
Condominium conversion, tenant protection in 624
Entireties property—income tax reporting 449
Equitable distribution injunctions 309
Fair Housing Act 522
Foreclosure:
Notice dates 335
Validation statutes 582, 738
Joint municipal assistance agency powers 609
Land donations for conservation, tax credit for 793
Lien waiver, conditions in prohibition of 888
Mental health authority purchases 402
Mineral claims extinction 502
Notice of sale, proof of 799
Parcel identifier number indexes 49
Recording form requirements—plats and maps 473
Sanitary district assessments 925
Second mortgage fees 541
Tax foreclosure notice requirement 855
Time-sharing:
Regulation 814
Tax, listing for 785

Property Tax Commission—appeals deadline 565

Property Tax System Study Committee—creation 838

Property Taxes—see Taxation: Ad valorem property taxes

Prostitution—see Crimes

Psychologists:
Age requirements—licenses 37
Confidentiality privilege 410

Psychology, Board of Examiners in:
Age requirements—licenses 37
Board membership and authority 82
License fees 82

Public Education Policy Council—creation and duties 860

Public Education, State Department of—see Public Instruction, State Department of

Public Employee Deferred Compensation Plan, N.C.—Board of Trustees creation and powers 559

Chapter

Public Health:
Abortion fund limit ..... 761(38)
Accounts, power of Human Resources Secretary to compromise 23
Bed and Breakfast at private homes, regulation of 884
EMS services in fire protection districts 642
Hazardous waste landfill rules criteria 546
Law rewrite 891
Medical Cost Containment, Legislative Commission on 575
Medicine, Institute of—creation ..... 923(197)
Midwifery regulation 897
PCB landfills special rules 605
Public hospital law recodification 775
Solid waste management facilities construction of 795

Public Hospitals (see also Hospitals; and Health Care Facilities):
Charitable Solicitations Act exemption 320
County hospital branches in other counties 578
Involuntary commitment procedures—defendants 380
Law recodification 775
Medical records subpoenas 665
Nursing home regulation 143
Parental liability—long-term care 12
Public health law rewrite 891
Sales tax refunds 594

Public Instruction, State Department of:
Aging, Governor's Advisory Council on—designee 40
Child abuse prevention programs 894
Children with special needs, obligations to 247
Cued speech center funds ..... 761(43)
Driver education program standards ..... 761(141), 923(217)
Enrollment decline offset ..... 761(9)
Extended day experiment, funds and program for ..... 761(92)
Instructional supplies allowance ..... 761(89)
N.C. Flag in fourth grade ..... 923(142)
Teacher duty-free periods ..... 761(87)-88
Technical amendments 768
Textbook funds, nonreversion of ..... 761(94)
Vocational education production work programs 750
Willie M. funds and obligations ..... 761(77)

Public Instruction, Superintendent of:
Computer Commission membership 267
Public Education Policy Council, membership on 860
Salary ..... 761(205), 761(209)
Technical amendments 768

Chapter

Public Records—see Records

Public Telecommunications, Agency for—Personnel Act exemption 666

Public Utilities—see Utilities

Publications, State:
Access guide for disabled ..... 761(128)
Block grants manual ..... 761(58)
Constitutional amendments, summaries of 844
Procedures 866
Purchase registry 839
Session Laws and Journals to senior colleges 842

Purchase and Contract, State—see Contracts and Purchases

R

Radiation Protection Commission—uranium mining regulation role 279

Radio Emergency Association of Citizens Teams (REACT)— tax deduction 303

Raeford, Town of:
Firemen and rescue squad fund contributions 496
Motor vehicle tax 75, 188

Railroads:
Revitalization projects 717
Studies of State's interest 63, 905
Railway equipment, sales tax on 713

Raleigh, City of:
Land acquisition and sales 159
Motor vehicle tax 75, 188
Street construction reservations 272
Water and sewer cost basis 211

Real Estate Commission—see Real Estate Licensing Board

Real Estate Licensing Board:
Disciplinary authority amendments 81
Licensure qualifications 384
Name change 81
Time-share regulation licensing 814

Real Property—see Property

Realtors:
Condominium conversion, tenant protection in 624
Fair Housing Act 522
Manufactured homes—motor vehicle dealer definition 312

Chapter

Records:
Attorney, powers of—short form 626
Attorney's fee for records disclosure 918
Computerized indexes—Registers of Deeds 699
Evidence code 701
Legislative confidentiality 900
Medical:
Peer review use 816
Subpoenas 655
Mental health authority employees—records confidentiality 281
Notarial validations:
Certain acts 205
Jurats 391
Public health law rewrite 791
Validation of certain instruments 398
Voter records—party access 218

Registers of Deeds:
Computer index authorization 699
Marriage license index 699
Mineral claims extinction 502
Notarial jurat validation 391
Notary application forms 427
Parcel identifier number indexes 49
Personal property indexes 127, 699
Plats and maps:
Recording form 473
Validation statute 398

Registered Practicing Counselors, N.C. Board of—creation and powers 755

Reidsville, City of:
Aged, water rate reduction for the 125
Land sale 893
School merger 783

Rescue Squads:
Pension eligibility, annexation effect on 636
Retirement:
Eligibility date 500
Service purchase 500

Retirement:
Clerks of Superior Court system:
Cost-of-living adjustments ..... 761(218)-(219), 761(221)
Equitable distribution, pension rights in 758, 811
Five-year service grandfathering ..... 761(230)-(231)

Chapter

Retirement:—continued
Clerks of Superior Court system:—continued
Refund waiting period 467
Tax sheltering restructure 469
Judicial system:
Cost-of-living adjustments ..... 761(218)-(219), 761(221)
Equitable distribution, pension rights in 758, 811
Five-year service grandfathering ..... 761(230)-(231)
Survivor's benefits ..... 761(234)
Refund waiting period 467
Survivor benefit study ..... 761(235)
Tax sheltering restructure 469
Law enforcement officers system:
Cost-of-living adjustment ..... 761(218)-(221)
Creditable service purchase—workers' compensation receipt cases 533
Death benefits ..... 761(236)-(237)
Discontinued service allowance and severance wages .... 761(225), 923(217)
Equitable distribution, pension rights in 758, 811
Five-year service grandfathering ..... 761(232)
Retirement formula increase, consideration for ..... 761(224)
Tax sheltering restructure 468
Unreduced benefits at 28 years, consideration for 878
Legislative system—creation ..... 761(238)-(240), 923(217)
Local governmental employees system:
Creditable service purchase—workers' compensation receipt cases 533
Equitable distribution, pension rights in 758, 811
Five-year service grandfathering ..... 761(226)-(227)
Joint municipal assistance agency employees 609
Reemployed retirees benefit reduction 556
Refund waiting period 467
Militia retirement age repeal 314
National Guard pensions ..... 761(250)-(251)
Rescue squads and firemen:
Annexation effect 636
Retirement date 500
Service purchase 500
Solicitorial system:
Cost-of-living adjustment ..... 761(218)-(219), 761(221)
Equitable distribution, pension rights in 758, 811
Five-year service grandfathering ..... 761(230)-(231)
Refund waiting priod 467
Tax sheltering restructure 469
Teachers and State employees system:
Blind vendors, retirement status of 867

Chapter

Retirement:—continued
Teachers and State employees system:—continued
Cost-of-living adjustments ..... 761(218)-(219), 761(221)
Coverage exemption—certain organizations 412
Credit Union employees opt-out 782
Creditable service purchases:
Temporary employees 725
Workers' compensation receipt cases 533
Discontinued service allowance and severance wages .... 761(225), 923(217)
Equitable distribution, pension rights in 758, 811
Five-year service grandfathering ..... 761(228)-(229)
Reemployed retirees benefit reduction 556
Refund waiting period 467
Retirement formula increase, consideration for ..... 761(224)
Special pension authority ..... 761(223)
Unreduced benefits:
Allowance ..... 761(222)
Legislative consideration—28-year service 878
Pre-1973 retirees 702
Trustees, Board of:
Aging, Governor's Advisory Council on—designee 40
Investments authority 702
Membership 717
Survivor benefit study ..... 761(235)

Revenue, State Department of:
Bingo law amendments ..... 896, 923(217)
Currency transaction reports 815
Election funds:
Ceiling removal 481
Checkoff location on return 480
Transfer to Treasurer 139
Fuel supplier and distributor bond requirement 220
Gasohol tax exemption rules 760
Mail contracts 7
Management Council, Governor's—membership 540
Pollution tax exemption repeal 643
Sales tax:
Hospitals, refunds to local government 594
Proceeds distribution 908
Sacramental wine refund 792
Savings and loan institution taxes 26
Secretary's salary 717
Tax Adjustment Act 713
Tax assessor certification program 813

Chapter

Revenue, State Department of:—continued
Tax refunds application to liability 663
Tax waiver—small estate exemption 198
Wildlife, tax refund checkoff for 865

Richmond County:
County Commissioners membership 57
Dobbins Heights, Town of—see that heading
Education board elections 128
Sheriff vacancy procedure 649

Roads—see Streets and Highways

Roanoke Rapids, City of—motor vehicle tax 75, 188

Roanoke Voyages Corridor Commission—jurisdiction 242

Robeson County:
Bail bondsmen under Statewide law 742
Fairmont, Town of—see that heading
Firearms on highways 385
Lumberton, Town of—see that heading
Parkton, Town of—see that heading
School district boundaries 337

Rockingham County:
Eden, City of—see that heading
Madison, Town of—see that heading
Mayodan, Town of—see that heading
Reidsville, City of—see that heading
School merger 783
Stoneville, Town of—see that heading

Rocky Mount, City of:
Firemen's supplemental retirement benefits 498
Zoning 122

Roper, Town of—motor vehicle tax 106, 188

Rose Hill, Town of—motor vehicle tax 75, 188

Rowan County:
Alderman, mayor vacancies 433
Education Board elections 97
Kannapolis, City of—see that heading

Rutherford County:
Education Board filing deadline 95
Police force authorization 271

S

Chapter

Salaries (see also specific entity):
Alcoholic Beverage Control Commission Chairman 717
Agriculture Commissioner ..... 761(208)
Attorney General ..... 761(209)
Auditor, State ..... 761(213)-(214), 913
Banking Commissioner 717
Banking Commissioner, Deputy 717
Burial Association Administrator 717
Community colleges personnel ..... 761(201)
Council of State ..... 761(204)-(205)
Economic Development Board chairman 717
Employees, State ..... 761(217)
Employment Security Commission Chairman 717
Freeze continuation ..... 761(217)
Governor ..... 761(194)-(195)
Governor's secretary 717
Highway Administrator, State 717
Highway Patrol grade change ..... 761(167)
Highway Patrolmen—Governor's office 717
Housing Finance Agency personnel 717
Incentive Pay for State Employees, Committee for 871
Industrial Commissioners 717
Insurance Commissioner ..... 761(206)
Judicial branch ..... 761(198)-(200)
Labor Commissioner ..... 761(207)
Law enforcement officers ..... 761(207)
Legislative employees ..... 761(196)-(197)
Legislators ..... 761(203)
Lieutenant Governor ..... 761(211)
Milk Commissioners 717
Motor Vehicle Commissioner 717
Parole Commissioners 717
Personnel Director, State 717
Ports Authority Director 717
Ports Railway Commission General Manager 717
Public Instruction, Superintendent of ..... 761(210)
Revenue, Secretary of 717
Shift premium pay ..... 761(16)
State officials, miscellaneous ..... 761(216)
State, Secretary of ..... 761(212)
Treasurer, State ..... 761(215)
University of North Carolina ..... 761(202)

Sales:
Artists' consignment rights 822

Chapter

Sales:—continued
Motor vehicles:
Franchises 705
Lien enforcement notice requirement 44
Odometer disclosure on title certificates 387
Remedies against manufacturers 598
Software to telephone companies—sales tax 510
Tax lien sales by local government 808

Sampson County-Clinton, Town of—see that heading

Sanitation:
County water and sewer system condemnation powers 735
Metropolitan sewerage district powers 333
PCB landfill special requirements 605
Public health law rewrite 791
Revenue bond approval—water and sewer systems 554
Sales tax, half-cent local option 908
Sanitary districts:
Assessments of benefited property, authority for 925
Corporate powers:
Full conferral 608
Water supply litigation 55
Energy Development Authority participation 652
Personal property disposal 130
Public health law rewrite 791
Services extension requirements—annexed areas 636
Solid waste management facilities 795
Voter registration in town upon dissolution 537
Water and drainage projects—counties 321
Water and sewer authorities:
Legal defense for officers and employees 525
Ordinance authority 820
Water contamination crime 507

Savings and Loan Institutions:
Account access—small estates 198
Currency transactions reports 815
Fair Housing Act—unlawful discrimination 522
Forgery definition clarification 397
Housing Finance Agency—loans to mortgage lenders 148
Law amendments 144
Loans 145
Mutual deposit guaranty associations, regulation of 719
Public investment from governments 158
Second mortgage fees 541

Chapter

Savings and Loan Institutions:—continued
Securities Act coverage 817
Taxes, franchise and income 26

Schools (see also Education, Boards of; Education, State Board of; and Public Instruction, State Department of):
Age for entry 656
Alcohol consumption on school property 917
Basic and vocational skills program 340, 907
Buildings—use by political parties 519
Children with special needs, obligations to 247
Consolidation and discontinuance 308, 752
Counselor confidentiality privilege override 410
Driver education ..... 761(141), 923(217)
Education Boards, organization of 408
Extended day experiment ..... 761(92)
Films from State library 819
Modular classroom tie-down ..... 761(93)
Public Education Policy Council duties 860
Public health law rewrite 791
Purchase and contract through Administration Department 717
Sales tax, half-cent local option 908
School buses, passing stopped 779
School fund, drug forfeitures to 528
Student intern assignments 710
Teachers:
Duty-free periods ..... 761(87)-(88)
Employment and dismissal procedures 770
Probationary period, extension of 394
Salary contingency authority ..... 761(78)
Vacation leave accumulation 872
Technical amendments 768
Test selection authority 627
Voter registration by school employees 707
Willie M. funds and obligations ..... 761(77)

Science and Mathematics, N.C. School of—appointment of Chairman ..... 761(184)

Scotland County—subdivision definition 96

Scotland Neck, Town of—annexation powers 636

Seafood Industrial Park Authority:
Bond approval 577
Salaries 717

Secretary of State—see State, Secretary of

Chapter

Securities:
Bank investment limitations 214
Registered public obligations issuance procedure 322
Savings and loan law amendments 144
Securities Act:
Amendments 144
Exemptions 509
Treasurer's investment authority 702

Service of Process—see Civil Procedure

Shelby, City of—public market authorization 226, 853

Sheriffs—see Law Enforcement Officers

Sheriff's Education and Training Standards Commission, N.C.—creation and powers 558

Smithville, Township of—Dosher Hospital trustees' election 439

Social Services:
Adoption consent revocation procedure 688
Adult special assistance 14
Block grant allocation ..... 761(56)
Child abuse reporting requirement 199
Child placement:
Procedure reference 454
Review after rights termination 607
Infant separation from parent—directors' duty to investigate 293
Medicaid schedule and funds ..... 761(60)-(62), 923(217)

Social Services Commission:
AFDC eligibility ..... 761(48)
Child support recovery, and paternity determination fees 527
Fee-setting and rules authority 883
Food stamp eligibility ..... 761(48)
Residential child care facilities licensure 637

Social Workers, N.C. Certification Board for—creation 495

Solid Waste—see Sanitation; and Waste Management

Southeast Interstate Low-Level Radioactive Waste Management Compact—creation 714

Southern Pines, Town of—charter amendments 359

Southern States Energy Board—creation 282

Southport, City of:
Ancient lease extinction 440
Charter revision 659

Standardization Commission—repeal 717

Chapter

Stanly County:
Airport Authority membership 238
Albemarle, City of—see that heading
Industrial Development Commission membership 237
Norwood, Town of—see that heading

State, Council of:
Revenue bonds, state issuance of 554
Salaries ..... 761(204)
Temporary rules filing procedure 857

State Employees—see Employees, State

State, Secretary of:
Business Opportunities Sales Act filing requirements 421
Computer Commission membership 267
Constitutional Amendments Publication Commission, appropriations for 844
Constitutional Amendments summaries 844
Fees 713
Great Seal—Halifax date addition 257
Joint municipal assistance agencies, certification of 609
Notaries qualifications, prescription of 427
Notary commission, power to revoke 427
Public hospital incorporations 775
Salary ..... 761(212)
Securities Act:
Exemption authority 509
Powers 817

Statesville, City of—assessments procedure 250

Stocks—see Securities

Stokes County:
Deer hunting season 487
Junk car regulation 841
King, Town of—see that heading
Municipal junk car regulation 841
Precinct boundaries 225
Street numbers in unincorporated areas 299

Stoneville, Town of:
Bridge construction, airspace encroachment for 524
Charter rewrite 287
Motor vehicle tax 75, 188

Stream Sanitation Committee—old reference repeal 222

Chapter

Streets and Highways (see also Transportation, State Department of Transportation):
Billboard removal compensation 318
Cost-sharing with willing owners 84
Culvert installation policy ..... 761(136)
Fire marshal—sirens and lights 32
Interest rates—highway condemnation judgments 812
Repair and maintenance pilot program ..... 761(135)
Road-widening funds ..... 761(139)
School buses, passing stopped 779
Signs and sign permit fees 604
Speed limits in non-functioning municipalities 131
Tandem trailers, operation of 898
Weight limits 724

Students—see Schools; and Colleges and Universities

Studies (see also Commissions, Committees, Councils, and Boards; the Resolutions Index; and individual listings):
Aging 905
Agriculture, Forestry, and Seafood Awareness Study Commission 915
Alcohol and drug treatment 415
Alcoholic beverages on State property 905
Alcoholism funds study ..... 761(68)
Animals by animal shelters and pounds, disposition of 905
Banks, savings and loans, credit unions—regulation and taxation 905
Biotechnology development 905
Child support collection procedures 905
College science equipment 905
Computer literacy in the public schools and community colleges 905
Contamination of unpackaged foods 905
Criminal Code Revision Study Committee 921
Criminal Justice Information System and Computerized Records Study Commission 825
Day Care 905
Disability Review Commission 880
District Attorney standards 905
Driver education ..... 761(141)
Duty-free lunch periods ..... 761(87)
Eckerd Wilderness Camping Program ..... 761(44)
Education fields assessments—need-based Student Loan Board ..... 761(182)
Eleemosynary institutions, investment guidelines for 905
Exceptional children ..... 761(85)
Executive branch, boards, commissions and councils in the 905
Fire service training programs ..... 761(20)
Food distribution facility on Dix Farm Property 905

Chapter

Studies (see also Commissions, Committees, Councils, and Boards; the Resolutions Index; and individual listings):—continued
Forestry topics ..... 761(120)-(122)
Hazardous Wastes Study Commission 926
Health professionals 905
Highway repair, maintenance and construction contracts ..... 761(135)
Indigents, cost of providing attorneys and guardians ad litem to 905
Information processing resources in State government 905
Insurance 905
Judicial retirement system ..... 761(235)
Land clearing and peat mining 905
Legislative communications confidentiality 905
License plates ..... 761(164)
Life care arrangements 905
Medical cost containment 875
Mental health deinstitutionalization project implementation ..... 761(28)
Mental Health Study Commission 268
Minors, restricting driving by 905
Motor pool rules 717
Motor vehicle inspection program 905
Motorboat titles and liability insurance 905
Municipalities, procedure for incorporating 905
Neuse River basin water quality 924
Nonpublic and public post-secondary educational institutions 905
Property Tax System Study Committee 838
Public Education Policy Council 860
Public health facility laws and certificate of need procedures 905
Public school financing ..... 761(86)
Pupil transportation ..... 761(79)
Railroad property, State 63, 905
Readable insurance policies 905
Rental housing, State-owned 905
Revenue laws 905
Seafood marketing 905
Small Business Finance Study Commission 914
Solar law 905
State government risk management 905
Statutory liens 905
Swift Creek Township ..... 923(204)
Teacher in-service training 905
Toxic or hazardous substances 905
Twelfth Grade 905
User fees at State-owned facilities 905
Vehicle garages ..... 761(183)

Chapter

Studies (see also Commissions, Committees, Councils, and Boards; the Resolutions Index; and individual listings):—continued
Vehicle maintenance system ..... 761(183)
Water quality in Haw River and B. Everett Jordan Reservoir 905
Water quality 905
Water resources issues involving North Carolina and Virginia 905
Willie M. class ..... 761(77)
Women's needs 905
Worthless checks 905

Surety Bonds:
Alarm systems businesses 786
Automobile insurance—designated agents 690
Fuel supplier and distributor requirement 220
Sheriffs 670
Small estates 711
State contract bond amounts 422
Traffic control officers 483
Uranium mining 279

Surf City, Town of—occupancy tax authorization 908

Surry County:
Pilot Mountain, Town of—see that heading
Property tax discounts 241
Street numbers in unincorporated areas 299

Surveyors:
Plats and maps:
Form requirement 473
Validation statute 756

Symphony, N. C.—balanced budget requirement ..... 761(117)

Symphony Society, N.C.:
Endowment account ..... 761(118)
Health benefits 499
Retirement coverage exemption 412

T

Tar River Port Commission—repeal 233

Tarboro, City of—community revitalization projects 265

Taxation:
Ad valorem property taxes:
Agriculture use-value classification eligibility 821, 826
Drainage programs, municipal tax authority for 828
Historic property exclusion 693

Chapter

Taxation:—continued
Ad valorem property taxes:—continued
Industrial and economic development—county and city tax authority 511
Interest on unpaid taxes 64
Joint municipal assistance agency exemption 609
Lien sales 808
Pollution control exemption repeal 643
Property Tax Commission appeals deadline 565
Property Tax System Study Committee 838
Tax assessor certification 813
Time-sharing arrangements, listing in 785
Alcoholic beverage tax proceeds distribution 650
Assessments:
Discounts from local government 388
Sanitary districts 925
Water and drainage projects, county 321
Credits:
Income taxes:
Land donations for conservation 793
Wood conversion carry-forward-poultry producers 929
Deductions:
Income taxes:
Corporations—basis reduction from federal tax credits 61
Legislators 155
Radio Emergency Associations of Citizens Teams (REACT) 303
Retirement plans, contributions to qualified 706
Exclusions:
Ad valorem property tax—historic properties 693
Gift tax 685
Income tax:
Dependent care 895
Interest repeal 713
Exemptions:
Ad valorem property taxes:
Joint municipal assistancy agencies 609
Pollution control repeal 643
Franchise taxes—nonprofit and charitable organizations 28
Fuel taxes—gasohol 591, 760
Income taxes:
Crime victims awards 832
Nonprofit and charitable organizations 28, 31
Inheritance taxes—retirement plans, contributions to qualified 706
License taxes—pest control operators 193

Chapter

Taxation:—continued
Exemptions:—continued
Sales and use taxes:
Advertising supplements 873
Death certificates 887
Printers 156
Franchise taxes:
Exempt organizations 28
Fuel taxes on leased vehicles 29
Savings and loan institutions 26
Fuel Taxes:
Bond requirement—suppliers and distributors 220
Gasohol special tax partial exemption 591, 760
Motor carrier tax sticker fee 713
Gift tax exclusions 685
Income taxes:
Corporations:
Deductions—basis reduction from federal tax credits 61
Depletion allowance allocation 713
Estimated tax, payment of 713
Exempt organizations:
Federal tax conforming change 28
Unrelated income 31
Land donation for conservation, tax credit for 793
Savings and loan associations 26
Wildlife, tax refund checkoff for 865
Wood conversion tax credit carry-forward—poultry producers 929
Crime victims award exemption 832
Dependent care, exclusion from gross income for 895
Domicile of married women 195
Election fund:
Ceiling 431
Return, location on 480
Entireties property reporting 449
Interest exclusion repeal 713
Internal Revenue Service Code references 713
Land donations for conservation, tax credit for 793
Legislators, deduction for 155
Radio Emergency Associations of Citizens Teams deductions (REACT) 303
Refund application to estimated liability 663
Retirement system tax-sheltering 468, 469
Wildlife, tax refund checkoff for 365
Wood conversion tax credit, carry forward of 929

Chapter

Taxation:—continued
Inheritance taxes:
Retirement plans, exemption for contributions to qualified 706
Tax waiver—small estate exemption 198
Technical amendment 768
Intangibles tax collection, 1982-83 27
License Taxes:
Alarm systems 300
Bingo games 896
Insurance agents and companies 790
Liquor and mixed drinks 713
Pest control exemption 193
Retailers 38
Soft drink dispensers 379
Videogames 713
Lodgings—gross receipts tax 713
Motor vehicles taxes:
License registration 713
Municipalities 75, 106, 188
Public health law rewrite 791
Sales and use taxes:
Advertising supplements, exemptions for 873
Aircraft 713
Boats 713
Computer programs 713
Death certificates, exemptions for 887
Livestock, swine and poultry equipment 805
Local one-half cent levy authorization 908
Motor vehicles 713
Printers' exemption 156
Railway equipment 713
Refunds to certain hospitals 594
Rental properties 713
Software to telephone companies 510
Taxicab tax limit 75, 188
Sacramental wine tax refund 792
Tax Adjustment Act 713
Tax foreclosure notice requirement 855

Teachers—see Schools

Technical Colleges—see Colleges and Universities: Community Colleges

Technological Development Authority, N.C.—creation 899

Theatres—community theatre ABC permits 583

Chapter

Thomasville, City of:
Motor vehicle tax 75, 188
School boundaries 636

Topsail Beach, Town of—occupancy tax authorization 908

Torts and Tortfeasors:
Alcoholic beverage sales (dram shop) liability 435
Evidence Code 701
Involuntary commitment liability immunity 638
Rural fire department good samaritan law 520
Subrogation to crime victim claims 832

Towns—see Municipal Corporations

Transportation, State Board of:
Culvert installation policy ..... 761(136)
Transit matching grant approval 616

Transportation, State Department of:
Aeronautics Council membership 325
Airports, aid to 319
Construction projects—federal eligibility 717
Contract Appeals, Board of State ..... 761(187)
Day-glo uniform payroll deduction 680
Fund transfer authority 717
Highway Administrator's salary 717
Highways:
Cost-sharing with willing owners 84
Repair and maintenance pilot program ..... 761(135)
Widening, funds for ..... 761(139)
Junkyard permit fees 604
Motor fleet requirements exception ..... 761(151)
Obsolete statutes repeal 684
Parking lots for ride-sharing 102
Sales tax collection costs, retention of ..... 761(140), 923(217)
Signs and sign permit fee 604
Speed limit in non-functioning municipalities 131
Transit grants administration 616
Weight limits authority 724

Transylvania County:
Brevard, Town of—see that heading
Education Board property transfer 579
School supplement tax application 363

Treasurer, State:
Abandoned property procedures 204
Agricultural Facilities Finance Agency, membership on 789

Chapter

Treasurer, State:—continued
Banking Commission, membership on 328
Children's trust fund—creation 894
Computer Commission membership 267
Election fund checkoff—ceiling 481
Housing Finance Agency funds 717
Investments authority 702
Licensing boards, investment income from 515
Local government unemployment compensation pool account 717
Public Education Policy Council membership 860
Public Employee Deferred Compensation Plan Board of Trustees—membership 559
Public investment records 158
Revenue bond, State issuance of 554
Salary ..... 761(215)
Tax checkoff funds distribution 139

Troutman, Town of:
Boundaries 104
Town administrator authorization 123

Tryon, Town of—deannexation 600

Tyrrell County:
Boundary with Washington County 11, 120
Columbia, Town of—see that heading
Education Board contracts authority 580
Public contracts 208

U

Unfair Trade Practices—see Consumer Protection

Unemployment Compensation—see Employment Security

Union County:
Condemnation by outside units 150
Marvin, Town of—see that heading
Monroe, City of—see that heading
School merger conditions 475
Traffic control officer exemption 483
Weddington, Town of—see that heading

United States Government:
Block grants, allocation by State of ..... 761(56)
Drivers' license exemption—nonresident military dependent 436
Federal funds, budget reporting of 717
Human Resources Department contracts 13
Interest preemption opt-out 126

Chapter

United States Government:—continued
Parent locater service 15
Prisoners in county jails limitation 219
Riot insurance eligibility 396
Transit grants administration 616
Truck registration—federal tax compliance 190

University of North Carolina—see Colleges and Universities

Utilities:
Community water systems pressure tank exemption 654
Joint municipal power agency—single municipality power 574
Nuclear facility emergency planning fee 622
Phone network, local government particiaption in State 406
Pollution control property tax exemption repeal 643
Reconnection, crime of unlawful 508
Software to telephone companies—sales tax 510

Utilities Commission, N. C.:
Appeals:
Constitutional amendment implementation 526
Requirements 571
Counsel funds, outside ..... 761(132)
"Dam" definition—dam safety law 306
Executive Director removal authority 717
Housing authorities—certificate of convenience repeal 149
Motor carrier safety regulation transfer ..... 761(137)-(138)
Revenue bond approval requirement 554

V

Valdese, Town of:
Economic development project powers 19
Firemen's supplemental retirement fund 501

Vance County:
Henderson, City of—see that heading
Special deputy program and benefits 344

Voting—see Elections

W

Wages—see Labor

Wake County:
Garner, Town of—see that heading
Raleigh, City of—see that heading
Sheriff deputy gun purchase 343
Swift Creek Township study ..... 923(204)

Chapter

Wake County:—continued
Wendell, Town of—see that heading
Zebulon, Town of—see that heading

Wake County Superior Court—see that heading: Courts

Wallace, Town of—motor vehicle tax 75, 188

Walnut Creek, Town of—annexation powers 636

Warren County:
PCB relief funds 849
Special deputy program and benefits 344

Washington, City of—Education Board elections 212

Washington County:
Boundary with Tyrrell County 11, 120
Education Board vacancies method 493
Plymouth, Town of—see that heading
Roper, Town of—see that heading

Waste Management (see also Environment; and Sanitation):
Clean water bonds authorization repeal 908
Energy Development Authority 652
Hazardous wastes:
Rules criteria 546
Study Commission 926
PCB landfill special requirements 605
Public health law rewrite 891
Sales tax, local option 908
Solid waste management facilities, construction of 795
Southeast Interstate Low-Level Radioactive Waste Compact 714

Waste Management Board, Governor's:
Membership 859
Reporting requirements to 546

Wastewater Treatment Plant Operators Certification Commission—wastewater treatment contracts 489

Watauga County—school day length 703

Water Resources (see also Environment; and Sanitation):
Clean water bonds authorization repeal 908
Development projects—local government cost-sharings 450
Drainage programs, municipal tax authority for 828
Neuse River water quality study 924
Public health law rewrite 891
Review of projects 717
Water and sewer authority ordinances 820
Water authority officers and employees legal defense 525

Chapter

Water Resources (see also Environment; and Sanitation):—continued
Water contamination crime 507
Water resource projects funds 757

Wayne County:
Mt. Olive, Town of—see that heading
Walnut Creek, Town of—see that heading

Weddington, Town of—incorporation 256

Weldon, Town of—motor vehicle tax 75, 188

Welfare—see Social Services

Wendell, Town of—motor vehicle tax 75, 188

Western North Carolina Agricultural Center—sales of merchandise 476

Whiteville, City of:
Education Board:
Appointments 4
Elections 234

Wildlife (see also Wildlife Resources Commission; and Hunting):
Big game hunting with handguns 492
Deer hunting with lights 137
License fees 140
Special conservation officers—appointment and powers 484
Tax refund checkoff program 865

Wildlife Endowment Fund—creation 482

Wildlife Resources Commission, N. C.:
Boat ramps:
Cashie River access funds ..... 923(224)
Cedar Island ramp funds ..... 923(259)
Roanoke River funds ..... 923(223)
Seven Springs funds ..... 923(235)
Tater Hole funds ..... 923(261)
West Onslow beach funds ..... 923(258)
Boats:
Numbering requirement 446
Registration transfer requirements 194
Deer hunting with lights 137
Director's salary 717
Exotic species hunting permits 615
Fund transfer ..... 761(127)
License fees 140
Managed hunts authority 403
Meetings requirement 717

Chapter

Wildlife Resources Commission, N. C.:—continued
Tax refund checkoff program 865
Wildlife and motorboat funds 717

Wilkes County—ambulance service fraud 42

Williamston, Town of—motor vehicle tax 75, 188

Wills—see Decedents' Estates

Wilmington, City of:
Charter references 347, 535
City council elections and structure—referendum 597
Contracts with non-city agencies 430
Firemen:
Benefit fund creation 505
Pension fund administration 504, 906
Historic district overlays—certificates of appropriations 432
Police pension fund administration 552
Referendum and initiative procedure 367
Special use districts and permits 366
Taxicab regulation 348

Wilson, City of—industrial property sale 748

Wilson, County of:
Assessments interest rate 10
Building permits—small jobs 614
County Commissioner election 2
Hospital lease term 239
Hunting from roads 423
Wilson, City of—see that heading

Winfall, Town of—motor vehicle tax 106, 188

Winston-Salem, City of:
Education Board surplus property sale 358
Firemen's Retirement Fund benefits and eligibility 464
Motor vehicle tax increase 9, 75, 188
Parking facility land lease 634
Parking fine 160
Toxicology laboratory 18

Woodfin, Town of—partisan election authorization 291

Workers' Compensation:
Benefit payment dates 599
Death benefits 772
Industrial Commission—salaries ..... 717, 761(216)
"Injury" definition 833
Insurance—see that heading

Chapter

Workers' Compensation:—continued
Leave use in certain cases 599
Physician privilege override 410
Public health law rewrite 891
Retirement creditable service purchase 533
Subrogation procedure 645

Y

Yadkin County:
Ambulance service fraud 42
East Bend, Town of—see that heading

Yancey County—motor vehicle taxes—all municipalities 75, 188

Youthful Offenders—see Criminal Procedure

Z

Zebulon, Town of—motor vehicle tax 75, 188

INDEX TO THE RESOLUTIONS

1983 GENERAL ASSEMBLY

Resolution Number

A

Agriculture—farm products, study of security interests in 53

B

Baker, Thomas J. 26

Barber, Wade 3

Beal, Fate James 34

Benton, Patricia Allen 47

C

Commendations:

Basketball champions 14

National Judicial College 25

Community Colleges:

State Board appointments 23

Unemployment action 12

Coltrane, John 44

Corn, Anthony Clyde 41

Corolla and Currituck access 42

Courts Commission, N.C.—Court of Appeals case overload study 52

D

DeBruhl, Claude 45

Debtor and Creditor—security interests in farm products, study of 53

Deceased persons:

Beal, Fate James 34

Benton, Patricia Allen 47

Coltrane, John 44

Corn, Anthony Clyde 41

Farrell, Claude H. 17

Martin, Governor Alexander 18

Talton, Hardy 16

Thorpe, Marion D. 38

Weathers, Dean Carroll W. 25

Wheeler, Raymond J. 4

Wright, Marion Allen 40

Resolution Number

Deceased persons:—continued
Yelton, Nathan H. 7

E

Education:
Community Colleges—see that heading
Education, Boards of—teacher workday scheduling with elections 31
North Carolina, University of—see that heading
State Board of Education:
Appointments 8
Teacher competency improvement 27
Unemployment action 12
Tuition tax credits 6

Elderly, appointment of 11

Elections—teacher workday scheduling 31

Environment:
Nuclear submarines, ocean disposal of 30
Pollution Prevention Pays Research Center, study for creation of 54

F

Farrell, Claude H. 17

Future of North Carolina, Commission on the 24

G

Gardner, Jonas Melvin (Jack) 19

General Assembly:
Adjournment 55
Deceased former members:
Baker, Thomas J. 26
Barber, Wade 3
DeBruhl, Claude 45
Gardner, Jonas Melvin (Jack) 19
Nichols, Lee Burrus 36
Poole, Julian Hawley 46
Talton, Hardy 16
Historic 1783 Assembly 18
Joint Sessions:
Addresses by Governor:
January 17, 1983 1

Resolution Number

General Assembly:—continued
January 25, 1983 2
Appointment confirmations:
Community Colleges, State Board of 23
Education, State Board of 8
Personnel Commission, State 28
Utilities Commission 22
Basketball teams, honoring championship—April 18, 1983 14
Legislative Research Commission:
Administrative procedure review, assistance in 51
Special Committee to Study the Department of Transportation, assistance to 50
Legislative Research Commission studies—see Studies
Roanoke voyage anniversary 35
UNC Board of Governors nomination procedure 37, 39

Governor:
Addresses to General Assembly 1, 2
Elderly, appointment of greater numbers of 11
Future of North Carolina, Commission on the 24

H

Handicapped persons—community support services access for mentally and developmentally disabled 43

Housing:
Home purchase tax deduction 10
Low-income housing programs continuation 9

Hunting—bird-hunting season adjustment 32

I

Insurance—mental health coverage 5

M

Mental health:
Community services for mentally and developmentally disabled 43
Insurance coverage 5

Mental Health Study Commission:
Area mental health, mental retardation, and substance abuse programs—examination of funding 21
Hospitals for mentally disordered, recodification of law of 50

N

Nichols, Lee Burrus 36

Resolution Number

North Carolina, University of:
Board of Governors nomination procedure 37, 39
Teacher improvement 27

O

Oregon Inlet, opening of 48

P

Personnel Commission, State—appointments confirmation 28
Pollution—see Environment
Poole, Julian Hawley 46
Public parks and lands 15, 29

R

Roanoke voyage anniversary 35

S

Social Services—community services for mentally and developmentally handicapped 43
Studies:
Administrative procedure 51
Area mental health, mental retardation, and substance abuse program funding 21
Court of Appeals case overload 52
Hospitals for mentally disordered recodification 50
Legislative Research Commission Studies:
Farm products, security interests in 53
Pollution Prevention Pays Research Center creation 54
Post-secondary degree activity 33

T

Talton, Hardy 16
Taxation:
Home purchase tax deduction 10
Tuition tax credits 6
Thorpe, Marion D. 38
Transportation, Department of—Corolla and Currituck access 42
Transportation, Special Committee to Study the Department of—continuation 49

Resolution Number

U

Unemployment, concern about 12

United States Government:
Bird-hunting season adjustment 32
Home purchase tax deduction 10
Low-income housing continuation 9
Nuclear submarines, ocean disposal of 30
Oregon Inlet opening 48
Parks and forests to remain public 15, 29
Tuition tax credits 6

Utilities Commission—appointment confirmation 22

W

Waste management—see Environment

Weathers, Dean Carroll W. 25

Wheeler, Raymond J. 4

Wilmington, City of—international city designation 20

Wright, Marion Allen 40

Y

Yelton, Nathan H. 7

INDEX TO THE SESSION LAWS

1983 EXTRA SESSION

Chapter

A

Alcoholic Beverages—minors, sales to 5

C

Courts—criminal discovery amendments 6

Crimes—minors, sales of alcoholic beverages to 5

Criminal Procedure—criminal discovery amendments 6

D

District Attorneys—criminal discovery amendments 6

G

General Assembly:

Appointments 1, 2

Session Laws and Journals, publication of 3

L

Laws Amended or Repealed:

1983 Session Laws:

Chapter 597 4

Chapter 911 1

Lieutenant Governor's appointments 1

S

Speaker's appointments 2

W

Wilmington, City of—City Council election method 4